

8066

2015-2016 Regular Sessions

I N A S S E M B L Y

June 5, 2015

Introduced by M. of A. CRESPO -- read once and referred to the Committee
on Transportation

AN ACT to amend the vehicle and traffic law, in relation to surety bond
requirements for car dealers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraphs a, b and c of subdivision 6-b of section 415 of
2 the vehicle and traffic law, as amended by chapter 7 of the laws of
3 2000, paragraph a as further amended by section 104 of part A of chapter
4 62 of the laws of 2011, are amended to read as follows:
5 a. As a condition to obtaining a registration certificate pursuant to
6 this section, every new motor vehicle dealer applicant and every quali-
7 fied dealer applicant shall obtain and continue in effect a surety bond
8 in an amount of fifty thousand dollars executed by a surety company
9 authorized to transact business in the state by the department of finan-
10 cial services of the state. As a condition to obtaining a registration
11 certificate pursuant to this section, every dealer applicant [who is
12 applying for a registration certificate in the first instance or who
13 sold two hundred motor vehicles or fewer in the previous calendar year
14 shall obtain and continue in effect a surety bond in an amount of ten
15 thousand dollars executed by a surety company authorized to transact
16 business in the state by the department of financial services of the
17 state. As a condition of obtaining a registration certificate pursuant
18 to this section, every dealer applicant who sold more than two hundred
19 motor vehicles in the previous calendar year shall obtain and continue
20 in effect a surety bond in an amount of twenty-five thousand dollars
21 executed by a surety company authorized to transact business in the
22 state by the department of financial services of the state. The bonds
23 shall be approved as to form by the commissioner and shall be condi-
24 tioned on the new motor vehicle dealer's, qualified dealer's, and deal-
25 er's: payment of all valid bank drafts, including checks, drawn by such

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 dealer for the purchase of motor vehicles; transfer of good title to
2 each motor vehicle such dealer sells; safekeeping of all customer depos-
3 its related to the sale of a motor vehicle between the time of receipt
4 of such customer deposit and the transfer of good title to the vehicle
5 to the customer; payment for all fines imposed upon the new motor vehi-
6 cle dealer, qualified dealer, or dealer by the commissioner pursuant to
7 the provisions of this chapter; and such dealer's repayment of any over-
8 charges of a customer by such dealer for the vehicle registration and
9 titling charges payable to the commissioner for registering and titling
10 the sold vehicle], WHO IS NOT A NEW MOTOR VEHICLE DEALER OR A QUALIFIED
11 MOTOR VEHICLE DEALER, WHO IS APPLYING FOR A NEW REGISTRATION CERTIFICATE
12 SHALL OBTAIN AND CONTINUE IN EFFECT A SURETY BOND IN AN AMOUNT OF (I)
13 TWENTY THOUSAND DOLLARS, FOR SUCH DEALERS WHO SELL FIFTY OR LESS MOTOR
14 VEHICLES A YEAR, AND (II) ONE HUNDRED THOUSAND DOLLARS, FOR SUCH DEALERS
15 WHO SELL MORE THAN FIFTY MOTOR VEHICLES A YEAR EXECUTED BY A SURETY
16 COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE BY THE DEPARTMENT
17 OF FINANCIAL SERVICES OF THE STATE. ANY SUCH DEALER WHICH IS BONDED
18 PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND
19 FIFTEEN WHICH AMENDED THIS PARAGRAPH, SHALL BE REQUIRED TO COMPLY WITH
20 THE AMENDMENTS MADE BY SUCH CHAPTER, ON AND AFTER JANUARY FIRST, TWO
21 THOUSAND SIXTEEN.

22 b. Recovery against a bond may be made by a person, including the
23 state, who obtains a judgment against the new motor vehicle dealer,
24 qualified dealer, or dealer for [an act or omission on which the bond is
25 conditioned if the act or omission occurred during the term of the bond]
26 ANY CLAIM RELATED TO THE BUSINESS OF SUCH NEW MOTOR VEHICLE DEALER,
27 QUALIFIED DEALER OR DEALER, INCLUDING BUT NOT LIMITED TO, CONTRACTUAL
28 VIOLATIONS, FRAUD, UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN VIOLATION
29 OF SECTION THREE HUNDRED FORTY-NINE OF THE GENERAL BUSINESS LAW, ACTS
30 AND OMISSIONS, THE AMOUNT OF THE VALID BANK DRAFTS (INCLUDING CHECKS
31 DRAWN BY THE MOTOR VEHICLE DEALER), QUALIFIED CHECKS DRAWN BY THE NEW
32 MOTOR VEHICLE DEALER, QUALIFIED DEALER OR DEALER FOR THE PURCHASE OF
33 MOTOR VEHICLES OR THE AMOUNT OF OVERCHARGE BY SUCH DEALER FOR REGISTRA-
34 TION OR TITLE FEES OR THE AMOUNT PAID TO SUCH DEALER OR THE DEPOSIT, AS
35 THE CASE MAY BE, FOR THE MOTOR VEHICLE FOR WHICH GOOD TITLE WAS NOT
36 DELIVERED, AND TITLE CLAIMS, IF THE ACT OR OMISSION OCCURRED DURING THE
37 TERM OF THE BOND. The total liability imposed on the surety under this
38 section for all [breaches of the bond condition] CLAIMS is limited to
39 the face amount of the bond. [Such liability may include, but is not
40 limited to, the amount of the valid bank drafts, including checks, drawn
41 by the new motor vehicle dealer, qualified dealer, or dealer for the
42 purchase of motor vehicles or the amount of overcharge by such dealer
43 for registration or title fees or the amount paid to such dealer or the
44 deposit, as the case may be, for the motor vehicle for which good title
45 was not delivered.] In no event shall the surety on a bond be liable for
46 total claims in excess of the bond amount, regardless of the number or
47 nature of claims made against the bond or the number of years the bond
48 remained in force, nor shall any such surety bond provide coverage for
49 transactions involving sales of any motor vehicles for which a bond is
50 not required pursuant to the provisions of paragraph d of this subdivi-
51 sion.

52 c. Any surety issuing a bond pursuant to this subdivision shall be
53 required to provide sixty days' notice to the commissioner prior to the
54 effective date of cancellation OR LAPSE of the bond, AND SHALL PROVIDE
55 NOTICE TO THE COMMISSIONER UPON THE DATE OF THE CANCELLATION OR LAPSE OF
56 SUCH BOND. UPON THE CANCELLATION OR LAPSE OF ANY SURETY BOND REQUIRED BY

1 THIS SUBDIVISION, THE COMMISSIONER SHALL WITHIN FIVE DAYS OF SUCH
2 CANCELLATION OR LAPSE, VERIFY THAT THE DEALER HOLDS A SURETY BOND WHICH
3 MEETS THE REQUIREMENTS OF THIS SUBDIVISION.
4 S 2. This act shall take effect on the one hundred eightieth day after
5 it shall have become a law.