

5765

2015-2016 Regular Sessions

I N   S E N A T E

June 2, 2015

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Introduced by Sen. ROBACH -- read twice and ordered printed, and when  
printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to mobility  
vehicles and new mobility vehicles

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

1     Section 1. Subdivision 1 of section 415 of the vehicle and traffic  
2 law, as amended by chapter 7 of the laws of 2000, is amended to read as  
3 follows:  
4     1. Definitions. The following terms when used in this article, shall  
5 be deemed to mean and include:  
6     a. "Dealer" means a person engaged in the business of buying, selling  
7 or dealing in motor vehicles, motorcycles or trailers, other than mobile  
8 homes or manufactured homes, at retail or wholesale; except, however,  
9 trailers with an unladen weight of less than one thousand pounds. For  
10 the purposes of this section, a "mobile home" or "manufactured home"  
11 means a mobile home or manufactured home as defined in section one  
12 hundred twenty-two-c of this chapter. Any person who sells, or offers  
13 for sale more than five motor vehicles, motorcycles or trailers in any  
14 calendar year or who displays or permits the display of three or more  
15 motor vehicles, motorcycles or trailers for sale at any one time or  
16 within any one calendar month upon premises owned or controlled by him  
17 OR HER, if such vehicles were purchased, acquired or otherwise obtained  
18 by such person for the purpose of resale, will be regarded as a dealer.  
19 Except as otherwise provided in subdivisions three, five, six-b, and  
20 seven of this section, the term "dealer" shall include a "new motor  
21 vehicle dealer" as defined by paragraph f of this subdivision and a  
22 "qualified dealer" as defined in paragraph g of this subdivision.  
23     b. "Person" means any natural person, firm, corporation, partnership,  
24 limited liability company, entity, joint venture, association or organ-  
25 ization.

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

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1 c. "Place of business" means a designated location at which the busi-  
2 ness of the dealer is conducted, and, in relation to a retail dealer,  
3 facilities for displaying new or used motor vehicles.

4 d. "Retail dealer" means a dealer whose business consists in whole or  
5 in part of buying, selling or dealing in motor vehicles, motorcycles or  
6 trailers at retail.

7 e. "Wholesale dealer" means a dealer whose business consists exclu-  
8 sively of buying, selling or dealing in motor vehicles, motorcycles or  
9 trailers at wholesale.

10 f. "New motor vehicle dealer" means a dealer who engages in the activ-  
11 ities described in paragraph a of this subdivision if such activities  
12 relate to new motor vehicles and if such dealer is party to a franchise,  
13 as the terms "new motor vehicle" and "franchise" are defined in section  
14 four hundred sixty-two of this title; provided, however, for purposes of  
15 this definition, a new motor vehicle shall include only those motor  
16 vehicles commonly classified as a passenger automobile, sport utility  
17 vehicle, light truck, pickup truck, van, minivan, or suburban, with a  
18 gross vehicle weight rating of ten thousand pounds or less, and shall  
19 not include (i) any such vehicle which has been converted for use as a  
20 tow truck, or (ii) a motor vehicle for which the current ownership docu-  
21 ment is a statement of acquisition issued pursuant to section four  
22 hundred twenty-nine of this title, a salvage certificate, salvage  
23 certificate of title, nonrepairable certificate, or similar document  
24 issued by any state or jurisdiction; or (iii) any motor vehicle commonly  
25 classified as a bus, school bus, garbage truck, marine trailer, tow  
26 truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile  
27 home or construction equipment; and provided further that: (I) a dealer  
28 is a new motor vehicle dealer only with respect to those vehicles which  
29 are of the same make as those which that dealer is authorized to sell at  
30 that location pursuant to a valid franchise agreement; AND (II) A DEALER  
31 IS NOT ACTING AS A NEW MOTOR VEHICLE DEALER WHEN DISPLAYING, ADVERTIS-  
32 ING, STORING AND/OR DEMONSTRATING A NEW MOBILITY VEHICLE.

33 g. "Qualified dealer" means a dealer, other than a new motor vehicle  
34 dealer or a dealer owned in whole or in part, directly or indirectly, by  
35 a manufacturer, who:

36 (i) acting through a single person, but operating at one or more  
37 locations of such single person, has displayed new motor vehicles for  
38 sale and/or lease, and has sold and/or leased (excluding sales or leases  
39 of any affiliates) a minimum of four thousand new and/or used motor  
40 vehicles annually (of which at least forty percent annually were new  
41 motor vehicles) at retail regardless of make or model from any one or  
42 more locations of such single person within the state, in each year from  
43 nineteen hundred ninety-five through and including nineteen hundred  
44 ninety-eight, exclusively; or

45 (ii) has displayed new motor vehicles for sale and/or lease, and has  
46 sold and/or leased (excluding sales or leases of any affiliates) a mini-  
47 mum of two hundred twenty-five new and/or used motor vehicles (of which  
48 at least thirty-three and one-third percent were new motor vehicles) at  
49 retail, regardless of make or model, from any one or more locations  
50 within the state, in the twelve-month period preceding August thirty-  
51 first, nineteen hundred ninety-nine; or

52 (iii) was issued an original certificate of registration as a dealer  
53 with a validation date of May, nineteen hundred ninety-nine, has  
54 displayed new motor vehicles for sale and/or lease, and has sold and/or  
55 leased (excluding sales or leases of any affiliates) a minimum of one  
56 hundred fifty new and/or used motor vehicles (of which at least fifty

were new motor vehicles), regardless of make or model, from any one or more locations within the state, in the period between July first, nineteen hundred ninety-nine and the effective date of [the] chapter SEVEN of the laws of two thousand [which added this subparagraph]. Notwithstanding the provisions of subdivision eighteen of this section, the total number of locations from which a qualified dealer eligible pursuant to this subparagraph may operate shall not exceed that number of locations operated by such qualified dealer on August thirty-first, nineteen hundred ninety-nine; or

(iv) was issued a certificate of registration as a dealer new and used with a validation date of February, nineteen hundred ninety-eight and has continuously held a certificate of registration as a dealer for the ten years preceding the effective date of [the] chapter SEVEN of the laws of two thousand [which added this subparagraph], and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred new and/or used motor vehicles (of which at least twenty percent were new motor vehicles) regardless of make or model, from one or more locations within the state in the period between September first, nineteen hundred ninety-eight through and including August thirty-first, nineteen hundred ninety-nine.

h. For the purposes of this section, "new motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban which meets any one or more of the following criteria:

- (i) a motor vehicle which has not been placed in consumer use; or
- (ii) a motor vehicle which has not been transferred to someone other than a distributor, new motor vehicle dealer, or qualified dealer; or
- (iii) a motor vehicle which has less than one thousand miles on the odometer.

Provided, however, that such term shall not include any such vehicle which has been converted for use as a tow truck or any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment.

i. "Used motor vehicle" means any vehicle not included in the definition of a new motor vehicle. Provided, however, that such term as used in paragraph g of this subdivision shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban, with a gross vehicle weight rating of ten thousand pounds or less, which (i) is not deemed to be a "new motor vehicle" pursuant to paragraph h of this subdivision, or (ii) has not been converted for use as a tow truck, or (iii) is not commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home, or construction equipment.

j. "Lease" means to arrange for a person to enter into an agreement subject to the provisions of article nine-A of the personal property law, or to act as a lessor as defined in such article.

K. "MOBILITY VEHICLE" MEANS A MOTOR VEHICLE THAT IS SPECIALLY CONVERTED AND EQUIPPED TO TRANSPORT A PERSON WITH A DISABILITY AND IS ALTERED OR MODIFIED FOR SUCH USE BY AN ALTERER OR FINAL STAGE MANUFACTURER PURSUANT TO PARTS 567 AND 568 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS OR A MODIFIER PURSUANT TO PART 595 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS AND THAT:

1 (I) HAS A CHASSIS THAT CONTAINS: (A) A PERMANENTLY LOWERED FLOOR OR  
2 PERMANENTLY LOWERED FRAME; OR (B) A PERMANENTLY RAISED ROOF AND RAISED  
3 DOOR; AND

4 (II) CONTAINS AT LEAST ONE OF THE FOLLOWING: (A) AN ELECTRONIC OR  
5 MECHANICAL WHEELCHAIR, SCOOTER, OR PLATFORM LIFT THAT ENABLES A PERSON  
6 TO ENTER OR EXIT THE VEHICLE WHILE OCCUPYING A WHEELCHAIR OR SCOOTER;  
7 (B) AN ELECTRONIC OR MECHANICAL WHEELCHAIR RAMP THAT IS INSTALLED AS AN  
8 INTEGRAL PART OR PERMANENT ATTACHMENT TO THE MOTOR VEHICLE.

9 FOR THE PURPOSES OF THIS SECTION, THE TERMS "ALTERER" AND "FINAL-STAGE  
10 MANUFACTURER" SHALL HAVE THE SAME MEANINGS AS SUCH TERMS ARE DEFINED IN  
11 PART 567.3 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AND THE TERM  
12 "MODIFIER" SHALL MEAN ANY MOTOR VEHICLE REPAIR BUSINESS THAT MODIFIES A  
13 MOTOR VEHICLE TO ENABLE A PERSON WITH A DISABILITY TO OPERATE, OR RIDE  
14 AS A PASSENGER IN, THE MOTOR VEHICLE.

15 L. "NEW MOBILITY VEHICLE" MEANS A MOBILITY VEHICLE THAT HAS NOT PREVI-  
16 OUSLY BEEN TITLED OR REGISTERED FOR OPERATION BY A CONSUMER, EITHER AS A  
17 MOBILITY VEHICLE OR AS A MOTOR VEHICLE.

18 S 2. Subdivision 7 of section 415 of the vehicle and traffic law is  
19 amended by adding a new paragraph c-1 to read as follows:

20 C-1. SPECIAL PROVISIONS RELATING TO MOBILITY VEHICLES. (I) ANY DEALER,  
21 OTHER THAN A NEW MOTOR VEHICLE DEALER, ENGAGED IN DISPLAYING, ADVERTIS-  
22 ING, STORING AND/OR DEMONSTRATING MOBILITY VEHICLES SHALL NOTIFY  
23 PROSPECTIVE PURCHASERS REGARDING ANY WARRANTY ON THE MOBILITY MODIFICA-  
24 TIONS AND THE EFFECT OF ANY SUCH MODIFICATIONS OR ALTERATIONS ON ANY  
25 WARRANTY ON THE UNDERLYING MOTOR VEHICLE AND, UPON THE SALE OF ANY SUCH  
26 MOBILITY VEHICLE, PROVIDE THE PURCHASER WITH ANY WARRANTY INFORMATION  
27 AVAILABLE TO ANY SUCH DEALER RELATING TO THE UNDERLYING MOTOR VEHICLE.

28 (II) NOTWITHSTANDING THE PROVISIONS OF ARTICLE TWELVE-A OF THIS CHAP-  
29 TER, A DEALER ENGAGED IN DISPLAYING, ADVERTISING, STORING AND/OR DEMON-  
30 STRATING MOBILITY VEHICLES MAY, WITHOUT OBTAINING A REPAIR SHOP LICENSE  
31 PURSUANT TO SUCH ARTICLE TWELVE-A, PERFORM REPAIRS ON THOSE PARTS OF THE  
32 MOBILITY VEHICLE THAT ARE UNIQUE TO THE MODIFICATIONS MADE THERETO AND  
33 WHICH ARE NOT PART OF THE ORIGINAL MANUFACTURED MOTOR VEHICLE.

34 S 3. This act shall take effect on the thirtieth day after which it  
35 shall have become a law.