

# STATE OF NEW YORK

5288

2023-2024 Regular Sessions

## IN SENATE

March 1, 2023

Introduced by Sen. BORRELLO -- 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 and the general business law, in relation to mobility dealers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs f and i of subdivision 1 of section 415 of the  
2 vehicle and traffic law, as amended by chapter 554 of the laws of 2015,  
3 are amended and two new paragraphs n and o are added to read as follows:  
4 f. "New motor vehicle dealer" means a dealer who engages in the activ-  
5 ities described in paragraph a of this subdivision if such activities  
6 relate to new motor vehicles and if such dealer is party to a franchise,  
7 as the terms "new motor vehicle" and "franchise" are defined in section  
8 four hundred sixty-two of this title; provided, however, for purposes of  
9 this definition, a new motor vehicle shall include only those motor  
10 vehicles commonly classified as a passenger automobile, sport utility  
11 vehicle, light truck, pickup truck, van, minivan, or suburban, with a  
12 gross vehicle weight rating of ten thousand pounds or less, and shall  
13 not include (i) any such vehicle which has been converted for use as a  
14 tow truck, or (ii) a motor vehicle for which the current ownership docu-  
15 ment is a statement of acquisition issued pursuant to section four  
16 hundred twenty-nine of this title, a salvage certificate, salvage  
17 certificate of title, nonrepairable certificate, or similar document  
18 issued by any state or jurisdiction[+], or (iii) any motor vehicle  
19 commonly classified as a bus, school bus, garbage truck, marine trailer,  
20 tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile  
21 home or construction equipment; and provided further that: (i) a dealer  
22 is a new motor vehicle dealer only with respect to those vehicles which  
23 are of the same make as those which that dealer is authorized to sell at  
24 that location pursuant to a valid franchise agreement; and (ii) a dealer

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

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1 is not acting as a new motor vehicle dealer when displaying, advertis-  
2 ing, storing and/or demonstrating a new mobility vehicle.

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

14 n. (i) "Mobility dealer" means a person who displays for sale or  
15 advertises for sale more than five mobility vehicles in any calendar  
16 year or who displays or permits the display of three or more mobility  
17 vehicles at any one time or within any one calendar month upon premises  
18 owned or controlled by him or her, regardless of the ownership of such  
19 mobility vehicles.

20 (ii) Mobility dealer does not include any of the following:

21 (A) receivers, trustees, administrators, executors, guardians or other  
22 persons appointed by or acting under the judgment or order of any court;

23 (B) public officers while performing their official duties;

24 (C) persons disposing of motor vehicles acquired for their own use or  
25 for the use of a family member, and actually so used, when the vehicles  
26 have been acquired and used in good faith and not for the purposes of  
27 avoiding the provisions of this section;

28 (D) financial institutions who sell repossessed mobility vehicles;

29 (E) insurance companies who resell mobility vehicles that they  
30 acquired in the course of business.

31 o. "Mobility equipment" means mechanical or electronic devices, parts  
32 or accessories specifically designed to facilitate the use of a motor  
33 vehicle by an aging or disabled person as interpreted by the National  
34 Highway Traffic Safety Administration and which are permanently attached  
35 to or incorporated in the vehicle.

36 § 2. The opening paragraph and paragraph c of subdivision 3 of section  
37 415 of the vehicle and traffic law, as amended by chapter 7 of the laws  
38 of 2000, are amended and a new paragraph b-1 is added to read as  
39 follows:

40 Registration of new motor vehicle dealers, mobility dealers, qualified  
41 dealers, and other motor vehicle dealers.

42 b-1. No person shall engage in business as a mobility dealer, or  
43 represent, advertise, or otherwise hold himself or herself out as  
44 engaged or intending to engage in the business of displaying, advertis-  
45 ing or inventorying new mobility vehicles in this state, unless there  
46 shall have been issued to him or her a certificate of registration as a  
47 mobility dealer as provided in this subdivision and subdivision seven of  
48 this section. Provided, however, that a registered new motor vehicle  
49 dealer or qualified dealer may engage in business as a mobility dealer,  
50 or represent, advertise, or otherwise hold himself or herself out as  
51 engaged or intending to engage in the business of selling, displaying,  
52 offering, advertising or inventorying mobility vehicles in this state,  
53 without having been issued to him or her a certificate of registration  
54 as a mobility dealer.

55 c. The issuance of such certificate of registration to a new motor  
56 vehicle dealer, a qualified dealer, mobility dealer or other motor vehi-

1 cle dealer shall be deemed to include the right to operate motor vehi-  
2 cles, motorcycles and trailers to the extent permitted by subdivision  
3 eight of this section, instead of obtaining vehicle registration as  
4 provided by sections four hundred one and four hundred ten of this  
5 title. The provisions of this section shall not apply to persons engaged  
6 in the business of buying, selling or dealing in snowmobiles and/or snow  
7 travellers.

8 § 3. The opening paragraph and paragraph a of subdivision 6-b of  
9 section 415 of the vehicle and traffic law, the opening paragraph as  
10 amended by chapter 7 of the laws of 2000 and paragraph a as amended by  
11 chapter 342 of the laws of 2016, are amended to read as follows:

12 Dealer, qualified dealer, mobility dealer and new motor vehicle dealer  
13 surety bond. a. As a condition to obtaining a registration certificate  
14 pursuant to this section, every new motor vehicle dealer applicant  
15 ~~[and]~~, every qualified dealer applicant and every mobility dealer appli-  
16 cant shall obtain and continue in effect a surety bond in an amount of  
17 fifty thousand dollars executed by a surety company authorized to trans-  
18 act business in the state by the department of financial services of the  
19 state. As a condition to obtaining a registration certificate pursuant  
20 to this section, every mobility dealer applicant and every dealer appli-  
21 cant who is applying for a registration certificate in the first  
22 instance or who sold fifty motor vehicles or fewer in the previous  
23 calendar year shall obtain and continue in effect a surety bond in an  
24 amount of twenty thousand dollars executed by a surety company author-  
25 ized to transact business in the state by the department of financial  
26 services of the state. As a condition of obtaining a registration  
27 certificate pursuant to this section, every dealer applicant who sold  
28 more than fifty motor vehicles in the previous calendar year shall  
29 obtain and continue in effect a surety bond in an amount of one hundred  
30 thousand dollars executed by a surety company authorized to transact  
31 business in the state by the department of financial services of the  
32 state. The bonds shall be approved as to form by the commissioner and  
33 shall be conditioned on the new motor vehicle dealer's, qualified deal-  
34 er's, and dealer's: payment of all valid bank drafts, including checks,  
35 drawn by such dealer for the purchase of motor vehicles; transfer of  
36 good title to each motor vehicle such dealer sells; safekeeping of all  
37 customer deposits related to the sale of a motor vehicle between the  
38 time of receipt of such customer deposit and the transfer of good title  
39 to the vehicle to the customer; payment for all fines imposed upon the  
40 new motor vehicle dealer, qualified dealer, or dealer by the commission-  
41 er pursuant to the provisions of this chapter; and such dealer's repay-  
42 ment of any overcharges of a customer by such dealer for the vehicle  
43 registration and titling charges payable to the commissioner for regis-  
44 tering and titling the sold vehicle. Any such dealer which is bonded  
45 pursuant to this section prior to the effective date of the chapter of  
46 the laws of two thousand sixteen which amended this paragraph shall be  
47 required to comply with the amendments made by such chapter upon  
48 renewal, replacement, alteration, or extension of such dealer's current  
49 surety bond.

50 § 4. Paragraph c of subdivision 7 of section 415 of the vehicle and  
51 traffic law, as amended by chapter 7 of the laws of 2000, is amended and  
52 a new paragraph b-1 is added to read as follows:

53 b-1. Registration certificates for mobility dealers. (i) Application.  
54 If a person makes application, under penalty of perjury, for a registra-  
55 tion certificate as a mobility dealer, the commissioner shall issue a  
56 registration as a mobility dealer to such dealer upon payment of the

1 prescribed fee and any requirements the commissioner may prescribe by  
2 regulation.

3 (ii) Rights of mobility dealers. Notwithstanding any other law or  
4 rule, a person holding a mobility dealer certificate shall have the  
5 right to:

6 (A) display, inventory, advertise, solicit, or demonstrate any mobili-  
7 ty vehicle, regardless of the chassis make of the mobility vehicle, and  
8 regardless of whether ownership of such mobility vehicle is held by a  
9 new motor vehicle dealer inside or outside this state;

10 (B) arrange, negotiate, and/or assist consumers as regards the  
11 purchase of any mobility vehicle;

12 (C) sell and install mobility equipment and accessories and other  
13 goods and services to meet the needs particular to disabled drivers and  
14 passengers;

15 (D) provide mobility vehicle maintenance and repair services.

16 (iii) Prohibitions. Notwithstanding any other law or rule, a person  
17 holding a mobility dealer certificate shall not have the right to  
18 perform repairs on mobility vehicles or other motor vehicles, without  
19 obtaining a license as a repair shop pursuant to article twelve-A of  
20 this chapter, however, a mobility dealer may, without obtaining such  
21 license, perform repairs on parts which are unique to mobility vehicles  
22 and were not part of the original manufactured motor vehicle.

23 (iv) Regulations by the commissioner. The commissioner shall have the  
24 power to promulgate such regulations as are necessary to implement  
25 mobility dealer registration and establish reasonable and appropriate  
26 qualifications for such dealers.

27 c. Registration certificate for other than new motor vehicle dealer,  
28 mobility dealer or qualified dealer. If the commissioner approves the  
29 application of an applicant for a registration certificate other than a  
30 new motor vehicle dealer certificate or a qualified dealer certificate,  
31 upon payment of the prescribed fee, he or she shall issue a registration  
32 certificate in such form as he or she may prescribe.

33 § 5. Section 198-a of the general business law is amended by adding a  
34 new subdivision (p) to read as follows:

35 (p) This section shall not apply to mobility equipment as defined in  
36 subdivision one of section four hundred fifteen of the vehicle and traf-  
37 fic law.

38 § 6. Section 198-b of the general business law is amended by adding a  
39 new subdivision h to read as follows:

40 h. This section shall not apply to mobility equipment as defined in  
41 subdivision one of section four hundred fifteen of the vehicle and traf-  
42 fic law.

43 § 7. This act shall take effect on the one hundred twentieth day after  
44 it shall have become a law.