

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.