

*in the performance of his duty.* The salary of one chief supervisor shall be in such amounts as may be fixed by the commissioner of highways, but not to exceed \$4,000 per year."

Approved April 10, 1941.

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CHAPTER 176—H. F. No. 550

*An act relating to licensing and regulating of motor vehicle dealers; amending Mason's Supplement 1940, Section 2686, and Mason's Minnesota Statutes of 1927, Section 2687.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Law amended.—Mason's Supplement 1940, Section 2686, is hereby amended to read as follows:

"2686. **Manufacturers and dealers in motor vehicles must be licensed.**—(a) No person, co-partnership or corporation shall engage in the business, either exclusively or in addition to any other occupation, of selling motor vehicles, new or used, or shall offer to sell, solicit or advertise the sale of motor vehicles, new or used, without first having acquired a license therefor as hereinafter provided. Application for such license and renewal thereof, shall be made to the registrar of motor vehicles, shall be in writing, and duly verified by oath. The applicant shall submit such information as said registrar may require, upon blanks provided by the registrar for such purpose. No application shall be granted nor a license issued to anyone, until and unless the applicant shall furnish proof satisfactory to the registrar of the following:

1. That the applicant has an established place of business. An established place of business when used in this act shall mean a permanent enclosed building or structure either owned in fee or leased at which a permanent business of bartering, trading and selling of motor vehicles will be carried on as such in good faith and not for the purpose of evading this act, *and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place.* Said place of business shall not mean residence, tents, temporary stands or other temporary quarters, nor permanent quarters occupied pursuant to any temporary arrangement.

2. That if the applicant desires to sell, solicit or advertise the sale of new and unused motor vehicles, he must have a bona fide contract or franchise in effect with a manufacturer

or distributor of the motor vehicle, or motor vehicles, he proposes to deal in. *He shall also have adequate space in the building or structure wherein his business is conducted for the display of motor vehicle or vehicles and shall also provide for the repair and servicing of motor vehicles and the storage of parts and accessories in the city or village where his business is located and conducted, such service may be provided through contract with bona fide operators actually engaged in such services.*

(b) If a license is granted, the licensee may be permitted to use unimproved lots and premises for sale, storage and display of motor vehicles; provided, however, that such unimproved lots and premises must be located within the county of the established place of business of the applicant.

If the applicant desires to set up an established place of business, as hereinbefore defined, in more than one county in this state, said applicant shall secure separate license for each county. No license for such additional county shall be issued until the registrar shall have been furnished with proof that the applicant has an established place of business as hereinbefore defined, in such additional county, and has otherwise complied with the requirements of this act for securing of license in the initial county.

If the licensee desires to remove from the established place of business occupied when the license is granted, to a new location, he shall first secure from the registrar of motor vehicles permission to do so. He shall be required to furnish proof satisfactory to the registrar that the premises to which he proposes to remove conform to the requirements of section 1, subdivision (a) hereof.

(c) The registrar shall grant or deny the application for such license within 60 days after the filing of the application. If said application is granted, said registrar shall license the applicant as a motor vehicle dealer for the remainder of the calendar year, and issue a certificate of license therefor as the registrar may provide upon which shall be placed a distinguishing number of identification of such dealer. Each application for such license, and application for the renewal thereof, shall be accompanied by the sum of \$20.00, which shall be paid into the state treasury and credited to the general revenue fund. Such license, unless sooner revoked as hereinafter provided, shall, upon the furnishing of proof as in the initial application herein provided for, satisfactory to the registrar, be renewed by the registrar annually upon application by the dealer and upon the making of all listings,

registrations, notices and reports required by the registrar, and upon the payment of all taxes, fees, and arrears due from such dealer.

(d) Such license may be revoked by the registrar of motor vehicles upon proof satisfactory to him of either of the following:

(1) Violations of any of the provisions of Mason's Supplement 1940, Sections 2672 to 2674-7, inclusive, or Sections 2676, or 2682; 2684-1 to 2684-6, inclusive, 2689, 2690, and 2692 or Mason's Minnesota Statutes of 1927, Sections 2675, 2677 to 2681, inclusive, or 2683, 2687, 2688, 2694; or any of the provisions of this act.

(2) Violation of or refusal to comply with the requests and order of the motor vehicle registrar.

(3) Failure to make or provide to the registrar all listings, notices and reports required by him.

(4) Failure to pay to the registrar all taxes, fees, and arrears due from and by such dealer.

(5) Failure to duly apply for renewal of license provided for herein.

(6) Revocation of previous license, of which the records of the registrar relating thereto shall be prima facie evidence of such previous revocation.

(7) Failure of continued occupancy of an established place of business as defined herein.

(8) Sale of a new and unused current model motor vehicle other than the make of motor vehicle described in the franchise or contract filed with the original application or renewal thereof, without permission from the registrar.

(9) Sale of a new and unused current model motor vehicle to anyone except for consumer use, or to a dealer duly licensed to sell the same make of motor vehicle.

(10) Material misstatement or misrepresentation in application for license or renewal thereof.

(e) The registrar shall issue to every motor vehicle dealer, upon a request from such motor vehicle dealer licensed as provided in subsection (a) hereof, one pair of number plates displaying a general distinguishing number upon the payment of five dollars to the registrar of motor vehicles. The registrar shall also issue to such motor vehicle

dealer such additional pair of such number plates as said motor vehicle dealer may request, upon the payment of such motor vehicle dealer to the registrar of the sum of five dollars for each additional pair. Motor vehicles, new and used, bearing such number plates owned by such motor vehicle dealer, may be driven upon the streets and highways of this state by such motor vehicle dealer, or any employee of such motor vehicle dealer, for demonstration purposes, or for any purpose *incident to the usual and customary conduct and operation of his business, in which he has been licensed under Mason's Supplement 1940, Section 2686, to engage.* Motor vehicles, new or used, owned by such motor vehicle dealer and bearing such number plates, may be driven upon the streets and highways for demonstration purposes by any prospective buyer thereof for a period of 48 hours. Any motor truck, new or used, owned by such motor vehicle dealer and bearing said motor vehicle dealer's number plates may be driven upon the streets and highways of this state, for demonstration purposes by any prospective buyer for a period of seven days. Upon the delivery of such motor vehicle or motor truck, new or used, to said prospective buyer for said demonstration purposes, said motor vehicle dealer shall deliver to said prospective buyer a card or certificate giving the name and address of said motor vehicle dealer, the name and address of such prospective buyer, and the date and hour of such delivery. Such card or certificate shall be in such form as the registrar may provide to the motor vehicle dealer for such purpose, and shall be carried by such prospective buyer while driving said motor vehicle or motor truck.

(f) Every licensed dealer in motor vehicles, as above defined, may make application upon a blank provided by the registrar for that purpose for a general distinguishing number for use upon all new motor vehicles being transported from the dealer's source of supply, or other place of storage, to his place of business, or to another place of storage, or from one dealer to another. A general distinguishing number shall be assigned by the registrar to such dealer for such purpose, and the registrar shall then issue to said dealer such number of pairs of such plates as the dealer may request, upon the payment by said dealer to said registrar of the sum of two dollars per pair. Such plates shall be known as "in transit" plates. The registrar may issue such "in transit" plates, upon the payment of the sum of two dollars to said registrar, to dealers duly licensed in other states or provinces upon information furnished him in such manner as he may prescribe, and which satisfies him that persons or companies

applying therefor are duly licensed dealers under the laws of such states or provinces.

(g) The registrar of motor vehicles, upon his own motion or upon the complaint of another, shall prepare and cause to be served upon the licensee complained of, a written notice or complaint setting forth, in substance, the violations charged, and shall require said licensee to appear at the time and place fixed therein before said registrar or authorized deputy, and show cause why his license should not be revoked.

The registrar shall, at the time and place fixed in said notice, proceed to hear and determine the matter on its merits. If the said registrar shall find the existence of any of the causes for revocation as set forth in section (d) above, and shall determine that the licensee's license should be revoked, he shall make a written order to that effect, and a copy of such order shall be served upon such licensee in the manner provided by law for the service of summons in a civil action. Upon such revocation, if it be a motor vehicle dealer, he shall immediately return to the registrar all number plates, including any "in transit" plates, in his possession.

(h) Any party or person aggrieved by such order of revocation may appeal therefrom to any district court of the state within 15 days after the service of a copy of such order upon the dealer complained of by the service of a written notice of appeal upon said registrar. The person serving such notice of appeal shall, within five days after the service thereof, file the same, with proof of service thereof, with the clerk of the court to which such appeal is taken, and thereupon said district court shall have jurisdiction over said appeal and the same shall be entered upon the records of said district court and shall be tried therein according to the rules relating to the trial of civil actions insofar as the same are applicable. The complainant before the registrar, if there was one, otherwise the registrar of motor vehicles, shall be designated as the "Complainant", and the dealer complained of shall be designated as the "Defendant." No further pleadings than those filed before the registrar shall be necessary. The findings of fact of the registrar shall be prima facie evidence of the matters, therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be on the appellant. If said court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed

and the order enforced as provided by law. If it shall be determined that the order is unlawful or unreasonable it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the court, upon an examination of said order and the return made on said appeal, and after giving defendant notice and opportunity to be heard, shall so direct. When no appeal is taken from such order, the parties affected thereby shall be deemed to have waived the rights to have the merits of such controversy reviewed by a court, and there shall thereafter be no trial of the merits or re-examination of the facts by any district court to which application may be made from a writ to enforce the same.

(i) Any party to an appeal or other proceeding in the district court under the provisions of this act may appeal from the final judgment, or from any final order therein, to the supreme court in the same cases and manner as in civil action.

(j) The registrar is hereby authorized to enforce this act and he may also appoint under his hand a sufficient number of persons amongst his several employees, said additional employees however not to exceed three in number, to act as inspectors and investigators and who when so appointed, shall have full authority to enforce this act. Before entering upon their official duties, the oath of appointment of each of said additional employees shall be filed in the office of the secretary of state. The registrar, his inspectors or investigators, when traveling or otherwise pursuing their duties outside the office of the registrar, shall be paid for their actual expenses incurred out of the same funds as other employees of the registrar of motor vehicles.

(k) The registrar shall have, and is hereby granted full authority to issue subpoenas requiring the attendance of witnesses before him, production of books, papers and other documents, articles or instruments, and compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation, and shall have full authority to administer oaths and to take testimony. All parties disobeying the orders of subpoenas of said registrar shall be guilty of contempt, as in proceedings in district courts of the state, and may be punished in like manner.

(l) Any person, co-partnership, or corporation, domestic or foreign, and any officer, or director, or employee of a corporation, domestic or foreign, who shall violate or neglect, fail or refuse to comply with any of the provisions of this act shall be guilty of a misdemeanor.

(m) The provisions of this act are hereby declared to be severable. If one provision hereof shall be found by the decision of a court of competent jurisdiction to be invalid such decision shall not affect the validity of the other provisions of this act."

Sec. 2. Law amended.—Mason's Minnesota Statutes of 1927, Section 2687, is hereby amended to read as follows:

"2687. All machines must be registered—exceptions.—Every motor vehicle (except those exempted in Section 2 of this act) shall be deemed to be one using the public streets and highways and hence as such subject to taxation under this act if such motor vehicle has since April 23, 1921, used such public streets or highways, or shall actually use them, or if it shall come into the possession of an owner other than as a manufacturer, dealer, warehouseman, mortgagee or pledgee. But, new and unused motor vehicles in the possession of a dealer solely for the purpose of sale, and used or second-hand motor vehicles which have not theretofore used the public streets or highways of this state which are in the possession of a dealer solely for the purpose of sale and which are duly listed as herein provided, shall not be deemed to be vehicles using the public streets or highways. The driving or operating of a motor vehicle upon the public streets or highways of this state by a motor vehicle dealer or any employee of such motor vehicle dealer for demonstration purposes or for any purpose incident to the usual and customary conduct and operation of his business in which he has been licensed under Mason's Supplement 1940, Section 2686, to engage, or solely for the purpose of moving it from points outside or within the state to the place of business or storage of a licensed dealer within the state or solely for the purpose of moving it from the place of business of a manufacturer, or licensed dealer within the state to the place of business or residence of a purchaser outside the state, shall not be deemed to be using the public streets or highways in the state within the meaning of this act or of Article 16 of the Constitution and shall not be held to make the motor vehicle subject to taxation under this act as one using the public streets or highways, if during such driving or moving the dealer's plates herein provided for shall be duly displayed upon such vehicle."

Approved April 10, 1941.