

HOUSE BILL No. 2645

AN ACT enacting the vehicle title service agent licensing act.

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

Section 1. As used in sections 1 through 11, and amendments thereto:

(a) "Director" means the director of vehicles, or a designee of the director;

(b) "division" means the division of vehicles of the department of revenue.

(c) "person" means every natural person, firm, partnership, association or corporation;

(d) "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon or public highway and is required to have a certificate of title of ownership issued pursuant to article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(e) "vehicle dealer" shall have the meaning ascribed to it in K.S.A. 8-2401, and amendments thereto;

(f) "vehicle title service agent" means any person who acts as an agent for a fee in making application for or obtaining:

- (1) A certificate of title of ownership of a vehicle;
- (2) registration for or the license plate or plates for a vehicle;
- (3) renewing the registration of a vehicle;
- (4) temporary registrations for a licensed Kansas vehicle dealer;
- (5) title assignment addendums for a licensed Kansas vehicle dealer;

or

- (6) sales tax receipt books for a licensed Kansas vehicle dealer.

"Vehicle title service agent" shall not include any person who is licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto, or any person who engages as a vehicle title service agent only for commercial vehicles, as defined under K.S.A. 8-1,100, and amendments thereto.

Sec. 2. No person shall engage in the business of a vehicle title service agent unless such person has complied with the provisions of this act. The director shall issue licenses provided by this act and shall have supervision over the licensees in respect to all the provisions of this act.

Sec. 3. (a) No vehicle title service agent shall engage in business in this state without obtaining a license as required by this act.

(b) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The application shall contain the name of the applicant, the address where business is to be conducted, the resident's address, if the applicant is an individual, the names and resident addresses of the partners of the applicant, if a partnership, the names and resident addresses of the principal officers of the applicant and the state of its incorporation, if a corporation. Every application under this section shall be verified by the applicant.

(c) All licenses shall be granted or refused within 30 days after the application is received by the director. If the division issues a license to an applicant, the applicant shall be authorized to engage in the business only at the address specified in the application. All licenses shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted. Applications for renewals received by the director after February 15 shall be considered as new applications. The license fees for each calendar year, or any part thereof, shall be \$75.

(d) A vehicle title service agent license is only valid to the person to which it is issued and cannot be transferred. Any purchaser or transferee of a vehicle title service agency must make application for a new vehicle title service license as provided by this act.

(e) The applicant or licensee shall furnish and maintain a bond in the amount of \$25,000, in such form and with such sureties as the director approves, conditioned upon the applicant or licensee complying with all the requirements for the lawful obtaining or receiving of certificates of title for vehicles and as indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for suspension or revocation of such person's license. Every bond shall be a corporate surety bond issued by a company authorized to do business in the

state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to section 6, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (f), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act (K.S.A. 77-501 through 77-549, and amendments thereto,) and the act for judicial review and civil enforcement of agency actions (K.S.A. 77-601 through 77-627, and amendments thereto). Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(f) An applicant or licensee may elect to satisfy the bonding requirements of subsection (e) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. The amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of \$25,000. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (e), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the vehicle which was the subject of the last transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the vehicle which was the subject of the last transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

Sec. 4. (a) Every licensee shall maintain for three years, a log containing a record entry of the date of each application, the name of the person for whom the title services were performed, the name of the owner, the vehicle identification number for each vehicle and if the service is performed for an individual, photo identification of the owner

(b) Any record kept pursuant to subsection (a) shall be open to inspection by any authorized agent of the division of vehicles, member of the Kansas highway patrol or any authorized law enforcement officer during reasonable business hours.

Sec. 5. (a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

- (1) Material false statement in an application for a license;
- (2) negligently failing to comply with any provision of this act or any rule and regulation adopted pursuant to this act;
- (3) failure or refusal to furnish and keep in force any required bond;
- (4) failure to comply with the laws of this state relating to certificates of title of vehicles;
- (5) has failed or refused to permit inspection of the licensee's records

as provided under subsection (b) of section 4, and amendments thereto, during the licensee's regular business hours;

(6) has failed or refused to surrender their license to the division or its agent upon demand;

(7) has demonstrated that such person is not of good character and reputation in the community in which the licensee resides;

(8) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a vehicle title service agent;

(9) has changed the location of such person's established place of business prior to approval of such change by the division;

(10) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(11) has failed to prominently display license; or

(12) has failed to comply with applicable Kansas tax laws.

(b) The director may deny the application for the license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(c) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its representatives while acting as its agent.

(d) Any licensee or other person aggrieved by a final order of the director, may appeal to the district court as provided by the act for judicial review and civil enforcement of agency actions.

Sec. 6. (a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than \$100 nor more than \$2,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation.

(c) Any party aggrieved by the decision of the director may appeal the same to the district court in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Sec. 7. Upon application of the director or any person having any interest in the subject matter, the district courts of this state may enjoin any person from violating any of the provisions of this act or any order or rule and regulation issued or adopted pursuant thereto.

Sec. 8. The obtaining of a license hereunder shall bring the applicant under the jurisdiction of the state of Kansas, and if no agent for service of process has been designated by a licensee, the licensee will be deemed to have designated the secretary of the state of Kansas as agent for receipt of service of process.

Sec. 9. The director shall remit all moneys received by or for the director from fees, charges or penalties under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle dealers and manufacturers fee fund.

Sec. 10. The secretary of revenue may adopt such rules and regulations as are necessary for the administration of this act.

Sec. 11. The provisions of sections 1 through 11, and amendments thereto, may be cited as the vehicle title service agent licensing act.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.