

Approved: February 2, 1993

Date

## MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Chairperson Ben Vidrickson at 9:00 a.m. on January 26, 1993 in Room 254-E of the Capitol.

Committee staff present: Hank Avila, Legislative Research Department

Bruce Kinzie, Revisor of Statutes

Martha Ozias, Committee Secretary

Conferees appearing before the committee:

Pat Wiechman - Executive Director for the Kansas Automotive Dismantlers and Recyclers Association

Rebecca Rice - Legislative Counsel for Kansas State Ophthalmologic Society

All members were present except:

Others attending: See attached list

Pat Wiechman addressed the committee concerning changes to improve the control of the salvage vehicle industry. She requested a "grandfather clause" be included in the bill in order to avoid harming an existing business with the proposed changes. (See attachment A)

Senator Vidricksen made the motion to introduce this bill and it was seconded by Senator Tiahrt. Motion carried.

Rebecca Rice spoke on behalf of the opticians and ophthalmologists requesting a one sentence insertion for immunity on judgement calls which are made to allow those who have impaired vision to drive.

A motion was made by Senator Vidricksen to introduce this bill. It was seconded by Senator Jones and the motion carried.

Senator Vidricksen then made a motion to approve the minutes of the January 19th and 20th meetings. Senator Burke seconded this and the motion carried.

The meeting was adjourned by the chairman.

## GUEST LIST

## SENATE TRANSPORTATION COMMITTEE

DATE: 1-26-73

[illegible]



## SENATE COMMITTEE TRANSPORTATION and UTILITIES

January 26, 1993

Chairman Vidricksen, Members of the Committee:

I am Pat Wiechman, executive director for the Kansas Automotive Dismantlers and Recyclers Association.

During the past year, K.A.D.R.A. has worked with the Division of Vehicles to prepare proposed changes to the Kansas Dealer Licensing Law. These changes are directed at what we believe to be improved control of the salvage vehicle industry. The salvage vehicle law in Kansas is somewhat like Topsy, "it wasn't planned - it just grew."

Federal agencies are taking more and more interest in salvage vehicles and salvage vehicle parts, with the resultant increasing control in areas that states have failed to address. One example is the anti-theft legislation aimed at vehicle theft and carjacking that was recently passed by Congress.

Excutive Office

ATTACHMENT A

2/26/93

TRANS.  
A-1

The proposed bill attempts to speak to areas that offer opportunities for disposal of theft vehicles and gives improved definitions and parameters that reflect changes in the salvage vehicle industry. In order to avoid the possibility of harming an existing business with the proposed changes, "grandfather clauses" have been included in the bill. The licensing of salvage vehicle pools is an additional licensing provision for which the Division has expressed support. The Division has also expressed a need to have the pools regulated. The Division has said that they will have no problem administering the changes as proposed. It is believed that there will be little physical impact from this bill.

K.A.D.R.A. appreciates your consideration of the introduction of this bill. I will attempt to answer any questions you may have.

Respectfully submitted,

Patricia M. Wiechman  
Executive Director

# KANSAS AUTOMOTIVE DISMANTLERS & RECYCLERS ASSOCIATION

AN ACT amending the Kansas Dealer Licensing Act; effecting statutory changes relating thereto; amending 8-1,137, 8-2401, 8-2404, 8-2408.

Sec. 1. K.S.A. 1992 Supp. 8-2401 is hereby amended as follows:

**Definitions.** As used in this act, the following words and phrases shall have the meanings:

(a) "Vehicle dealer" means any person who: (1) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or (2) for commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined in [(bb)]; but does not include: (A) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles; (B) public officers while performing their official duties; (C) employees of persons enumerated in provisions (A) and (B), when engaged in the specific performance of their duties as such employees; (D) auctioneers conducting auctions for persons enumerated in provisions (A), (B) or (C); or (E) auctioneers who, while engaged in conducting an auction of tangible personal property for others, offer for sale: (i) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars; (ii) vehicles which meet the statutory definition of antique vehicles; or (iii) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (E), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

(b) "New vehicle dealer" means any vehicle dealer who is a party to an agreement, with a first or second stage manufacturer or distributor, which agreement authorizes the vehicle dealer to sell, exchange or transfer new motor vehicles, truck, motorcycles, or trailers or parts and accessories made or sold by such first or second stage manufacturer or distributor and obligates the vehicle dealer to fulfill the warranty commitments of such first or second stage manufacturer or distributor.

(c) "Used vehicle dealer" means any person actively engaged in the business of buying, selling or exchanging used vehicles.

(d) "Vehicle salesman" means any person who is employed as a salesman by a vehicle dealer to sell vehicles.

(e) "Board" means the vehicle dealer review board created by this act.

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

(g) "Division" means the division of vehicles of the department of revenue.

(h) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated except that such term shall not include motorized bicycles, and such term shall not include manufactured homes or



mobile homes. As used herein, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 1991 Supp. 58-4202.

(i) "Motor vehicle" means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated.

(j) "Licensor" means the director or division or both.

(k) "First stage manufacturer" means any person who manufactures, assembles and sells new vehicles to new vehicle dealers for resale in this state.

(l) "Second stage manufacturer" means any person who assembles, installs or permanently affixes body, cab or special unit equipment to a chassis supplied by a first stage manufacturer, distributor or other supplier and sells the resulting new vehicles to new vehicle dealers for resale in this state.

(m) "First stage converter" means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier, specially constructed body units to result in motor vehicles used as, but not limited to, buses, wreckers, cement trucks and trash compactors.

(n) "Second stage converter" means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale.

(o) "Distributor" means any person who sells or distributes for resale new vehicles to new vehicle dealers in this state or who maintains distributor representatives in this state.

(p) "Wholesaler" means any person who purchases vehicles for the purpose of resale to a vehicle dealer.

(q) "Factory branch" means any branch office maintained in this state by a first or second stage manufacturer for the sale of new vehicles to distributors, or for the sale of new vehicles to new vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.

(r) "Distributor branch" means any branch office similar to (q) maintained by a distributor for the same purposes as a factory branch.

(s) "Factory representative" means a representative employed by a first or second stage manufacturer or factory branch for the purpose of making or promoting the sale of its new vehicles to new vehicle dealers, or for supervising or contacting its new vehicle dealers or prospective new vehicle dealers with respect to the promotion and sale of such vehicles and parts or accessories for the same.

(t) "Distributor representative" means any representative similar to (s) employed by a distributor or distributor branch for the same purpose as a factory representative.

(u) "Person" means any natural person, partnership, firm, corporation or association.

(v) "New motor vehicle" means any motor vehicle which has never been titled or registered and has not been substantially driven or operated.

(w) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between first or second stage manufacturers, distributors and vehicle dealers, by which:

(1) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(2) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(x) "Broker" means any person who, for a fee commission, money, other thing of value, valuable consideration or benefit, either directly or indirectly, arranges or offers to arrange a transaction involving the sale of a vehicle, or is engaged in the business of (1) Selling or buying vehicles for other persons as an agent, middleman or negotiator; or (2) bringing buyers and sellers of vehicles together, but such term shall not include any person engaged in a business in which the acts described in this subsection are only incidentally performed or which are performed or authorized within the requirements or scope of any other category of license, or not prohibited in the manner authorized by the vehicle dealers' and manufacturers' licensing act.

(y) "Salvage Vehicle Dealer" means any person engaged in the business of buying, dismantling, ~~disassembling or recycling wrecked, abandoned or repairable vehicles and selling the usable parts thereof, or selling such wrecked, abandoned or repairable vehicles as a unit or selling the hull of the vehicle after the salvageable parts have been removed~~ *selling or exchanging used vehicles and primarily engaged in the business under Standard Industrial Classification Code 5015 and complying with local government regulations for zoning as a salvage yard.*

(z) "Lending agency" means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a vehicle.

(aa) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensed business, except that a vehicle dealer who derives at least 50% of such person's income from operating a farm as a resident thereof, the established place of business may be the farm residence of such vehicle dealer and the operable telephone may be located in such residence when such dealer engages only in vehicles and equipment not required to have vehicle registration to travel on a highway.

(bb) "Auction motor vehicle dealer" means any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder.

(cc) "Licensee" means any person issued a valid license pursuant to this act.

(dd) "Dealer" means a vehicle dealer as defined by this act, unless the context otherwise requires.

(ee) "Insurance company" means any person desiring to be licensed under this act and engaged in the business of writing or servicing insurance related to vehicles.

(ff) "Supplemental place of business" means a business location other than that of the established place of business.

New Sec. (gg) "Standard Industrial Classification Code 5015" is the classification provided by the United States Census Bureau for establishments primarily engaged in the distribution at wholesale or retail of used motor vehicle parts. This industry includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts. Establishments primarily engaged in dismantling motor vehicles for scrap are classified in Industry 5093.

New Sec. (hh) "Salvage Vehicle" means any vehicle which is abandoned, dismantled, or damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor makes it uneconomical to repair.

New Sec. (ii) "Salvage Yard" means the place owned or leased and regularly occupied by a person, firm or corporation, doing business under Standard Industrial Classification Code 5015 and licensed under the provisions of this act for the principal purpose of engaging in the business of a salvage vehicle dealer. Salvage yard shall include the location where the products for sale are displayed and offered for sale; where the books and records required for the conduct of the business are maintained; where the records are kept in the normal daily business activity; and where the records are made available for inspection.

(A) A salvage yard shall consist of the following:

(1) A minimum area of 40,000 square feet, unless all of the business of the salvage vehicle dealer is conducted within the confines of a building;

(2) Shielded by a fence meeting the following requirements:

(a) Having a minimum height of 6 feet with a maximum of 10 feet in height.

(b) Such fencing shall shield the inventory of the business from ordinary view.

(3) A living hedge of equal height and sufficient density may be substituted for the fence. A living hedge may exceed the 10-foot height limitation.

(4) Reasonable consideration shall be given to the topography of the land by enforcement personnel when inspecting premises for such fence or enclosure, provided, however, that this provision shall not be construed to permit violation of the United States Highway Beautification Act of 1965, as amended, where applicable.

(5) A building, used in the business, may be used in whole or in part to shield the inventory of the business from ordinary view.

(6) If the business of the salvage vehicle dealer is conducted within the confines of a building, the provisions of (2), (3), (4) and (5) shall not apply.

(7) All non-owned vehicles in storage for the general public shall be held in an area segregated and easily identifiable from the inventory of the salvage vehicle dealer. The salvage vehicle dealer shall maintain a separate record of all transactions concerning these vehicles.

(B) The office in which such business will be transacted will be in a structure of sufficient size to conduct said business, this area shall consist of the following:

(1) A minimum area of 200 square feet;

(2) Area devoted to sales transactions;

(3) An office to maintain records required to operate business by the salvage vehicle dealer;

(4) Regular business hours posted in plain view; and



(5) Records of the business available for inspection during regular business hours by any employee of the division or any member of the highway patrol as set forth in K.S.A. 8-2408(c).

(C) Sign meeting the provisions of K.S.A. 8-2404(m).

(D) Any salvage vehicle dealer which was lawfully in existence on July 1, 1993, and duly licensed under the provisions of K.S.A. 8-2404 et seq., shall not be required to meet the provisions of (ii)(A)(1) and (ii)(B)(1) above so long as said salvage vehicle dealer remains in continuous operation at the same business location. A salvage vehicle dealer will not be considered in continuous operation if such salvage vehicle dealer is closed for business for a period exceeding two consecutive months, unless such closure is approved by the director.

New Sec. (jj) "Salvage Vehicle Pool" means any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.

New Sec. (kk) "Ultimate purchaser" means, with respect to any salvage vehicle or salvage vehicle part, a purchaser who in good faith purchases such salvage vehicle or part for purposes other than resale and is not licensed as a salvage vehicle dealer under this act.

New Sec. (ll) "Major Component Part" means any sheet metal vehicle part bearing the public vehicle identification number, or engine number if manufactured prior to 1981, to include front clips, rear clips, and doors.

Sec. 2. K.S.A. 1992 Supp. 8-2404 is hereby amended as follows:

**License required; license fees; bond required, when; place of business required, when; supplemental place of business; manual and examination for salesman; prohibiting brokering of new and used motor vehicles; exceptions.**

(a) No vehicle dealer shall engage in business in this state without obtaining a license as required by this act. Any vehicle dealer holding a valid license and acting as a vehicle salesman shall not be required to secure a salesman's license.

(b) No first stage manufacturer, second stage manufacturer, factory branch, factory representative, distributor branch or distributor representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such business.

(c) 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 director may require in the application, or otherwise, information relating to the applicant's solvency, financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to salesmen, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal or a sales

agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director. Applications for renewals, except for renewals of licenses issued to salesmen, received by the director after February 15, shall be considered as new applications. All salesmen's licenses issued on or after January 1, 1987, shall expire on June 30, 1988, and thereafter shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salesmen's licenses received by the director after July 15 shall be considered as new applications.

(e) License fees for each calendar year, or any part thereof shall be as follows:

(1) For new vehicle dealers, \$50;

(2) for distributors, \$50;

(3) for wholesalers, \$50;

(4) for distributor branches, \$50;

(5) for used vehicle dealers, \$50;

(6) for first and second stage manufacturers, \$200 plus \$50 for each factory branch in this state;

(7) for factory representatives, \$25;

(8) for distributor representatives, \$25;

(9) for brokers, \$50;

(10) for lending agencies, \$25;

(11) for first and second stage converters, \$25;

(12) for salvage vehicle dealers, \$50;

(13) for auction motor vehicle dealers, \$50;

(14) for vehicle salesman, \$15; and

(15) for insurance companies, \$50;

(16) for salvage vehicle pool, \$50.

~~Any salvage vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one \$50 fee for both licenses.~~ Any new vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one \$50 fee for both licenses.

(f) Dealers establishing supplemental places of business within the same county of their licensure shall be required to pay a supplemental license fee of \$10. Original inspections by the division of a proposed established place of business shall be made at no charge except that a \$5 fee shall be charged by the division for each additional inspection the division must make of such premises in order to approve the same.

(g) The license of all persons licensed under the provisions of this act shall state the address of the established place of business, office or branch and must be conspicuously displayed therein. If such address is changed, the director shall endorse the change of address on the license without charge if it is within the same county. A change of address to a different county shall require a new license and payment of the required fees.

(h) Every salesman, factory representative or distributor representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a vehicle salesman shall be mailed or otherwise delivered by the division to the employer of the salesman for public display in the employer's established place of business. When a salesman ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesman, factory representative or distributor representative who terminates employment with

one employer may file an application with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a \$2 transfer fee. A salesman, factory representative or distributor representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approved, but such amount shall be not less than \$5,000 nor more than \$20,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every applicant or licensee who is or applies to be a used vehicle dealer or a new vehicle dealer shall furnish and maintain a bond in such form, amount and with such sureties as the director approves, in the amount of \$15,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any act by the licensee in violation of any act which constitutes grounds for suspension or revocation of the license. To comply with this subsection, 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 party. 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. Bonding requirements shall not apply to first or second stage manufacturers, factory branches, factory representatives or salesmen. The proceeds of the bond on deposit or in lieu of bond provided by subsection (j), shall be paid upon receipt by the director of a final judgment from a Kansas court of competent jurisdiction against the dealer and in favor of an aggrieved party.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas, negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas or irrevocable letters of credit of any such bank. 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.

(k) No license shall be issued by the director to any person to act as a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction motor vehicle dealer, second stage manufacturer, first stage converter, second stage converter or distributor unless the applicant for the vehicle dealer's license maintains an established place of business which has been inspected and approved by the division. First stage manufacturers, factory branches, factory representatives, distributor branches, distributor representatives and lending agencies are not required to maintain an established place of business to be issued a license.

(l) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space to display vehicles at least equal in number to the number of dealer license plates the dealer has had assigned.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every vehicle dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of this act may be used by a dealer to conduct more than one business, provided that suitable space and facilities exist therein to properly conduct the business of a vehicle dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the supplemental place of business.

(q) Any vehicle dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new vehicles in this state must satisfactorily demonstrate to the director that such vehicle dealer has a bona fide franchise agreement with the first or second

stage manufacturer or distributor of the vehicle, to sell, exchange or transfer the same or to cause to be sold, exchanged or transferred.

No person may engage in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for the make or makes of new motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, includes: (1) Displaying new motor vehicles on a lot or showroom; (2) advertising new motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting or referring buyers for new motor vehicles.

(r) No person may engage in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for used motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, includes: (1) Displaying used motor vehicles on a lot or showroom; (2) advertising used motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or (3) regularly or actively soliciting buyers for used motor vehicles.

(s) The director of vehicles shall publish a suitable Kansas vehicle salesman's manual. Before a vehicle salesman's license is issued, the applicant for an original license or renewal thereof shall be required to pass a written examination based upon information in the manual.

(t) No new license shall be issued nor any license renewed to any person to act as a salvage vehicle dealer until the division has received evidence of compliance with the junkyard

and salvage control act as set forth in K.S.A. 68-2201 et seq. and amendments thereto.

(u) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle which has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

New Sec. (v) In addition to the provisions herein, each person initially applying for a salvage vehicle dealer license shall supply the following information to the director:

(1) A statement of the previous history, record and association of the applicant and of each owner, partner, officer, and director, which statement shall be sufficient to establish to the satisfaction of the director the reputation in business of the applicant;

(2) A statement showing whether the applicant has previously applied for a vehicle dealer license in this state or any other state and the result of the application and whether the applicant has ever been the holder of any such license which was revoked or suspended;

(3) If the applicant is a corporation or partnership, a statement showing whether any of the partners, officers, or directors have been refused a vehicle salesman or vehicle dealer license in this state or any other state, or have been the holder of any such license which was evoked or suspended.

(4) Upon renewal of a salvage vehicle dealer license, the director may require the applicant for renewal to submit the information in (1), (2), and (3) above.

(5) In addition to provisions in K.S.A. 8-2410 et seq., a license may be denied, suspended or revoked or a renewal may be refused by the director on the grounds of the information obtained in (1), (2), and (3) above.

New Sec. (w) A salvage vehicle pool shall be licensed under the provisions of this act. No license shall be issued to a salvage vehicle pool until such pool has paid a fee of \$50.00 per year. Salvage vehicle pools shall not be issued dealer license plates.

(A) No person licensed as a salvage vehicle pool under this act shall:

(1) sell a salvage vehicle when having reasonable cause to believe it is not offered by the legal owner thereof;

(2) sell a salvage vehicle to any person except a person licensed as a salvage vehicle dealer under this act unless sales tax is collected.

(3) fail to have available on the premises a certificate of title of a salvage vehicle sold by the salvage vehicle pool to provide verification of mileage at the time of sale, unless such vehicle is included in the exceptions as set forth in K.S.A. 1992 Supp. 8-135 et seq.;

(4) operate as a salvage vehicle pool at the same location where any salvage yard is operated.

(5) sell any vehicle without disclosing the true owner of such vehicle prior to sale.

(B) A salvage vehicle pool shall consist of the following:

(1) A minimum area of 40,000 square feet, unless all of the business of the salvage vehicle pool is conducted within the confines of a building;

(2) Shielded by a fence meeting the following requirements:

(a) Having a minimum height of 6 feet with a maximum of 10 feet in height.

(b) Such fencing shall shield the inventory stored, displayed and offered for sale from

ordinary view.

(3) A living hedge of equal height and sufficient density may be substituted for the fence. A living hedge may exceed the 10-foot height limitation.

(4) Reasonable consideration shall be given to the topography of the land by enforcement personnel when inspecting premises for such fence or enclosure, provided, however, that this provision shall not be construed to permit violation of the United States Highway Beautification Act of 1965, as amended, where applicable.

(5) A building, used in the business, may be used in whole or in part to shield the inventory of the business from ordinary view.

(6) If the business of the salvage vehicle pool is conducted within the confines of a building, the provisions of (2), (3), (4) and (5) shall not apply.

(C) The office in which such business will be transacted will be in a structure of sufficient size to conduct said business, this area shall consist of the following:

(1) Area devoted to sales transactions;

(2) An office to maintain records required to operate business by the salvage vehicle pool;

(3) Regular business hours posted in plain view; and

(4) Records of the business available for inspection during regular business hours by any employee of the division or any member of the highway patrol as set forth in K.S.A. 8-2408(c).

(C) Sign meeting the provisions of K.S.A. 8-2404(m).

(D) Any salvage vehicle pool which was lawfully in existence on July 1, 1993, shall not be required to meet the provisions of (w)(B)(1) above so long as said salvage vehicle pool remains in continuous operation at the same business location. A salvage vehicle pool will not be considered in continuous operation if such salvage vehicle pool is closed for business for a period exceeding two consecutive months, unless such closure is approved by the director.

(x) Nothing herein shall be construed to prohibit a person not otherwise required to be licensed under this act from selling such person's own vehicle as an isolated and occasional sale.

Sec. 4. K.S.A. 1992 Supp. 8-2408 is hereby amended as follows:

**Dealer requirements; reports; records, availability for inspection; disposition of business; exception.** Except as hereinafter provided, every person licensed as a dealer under provisions of this act shall:

(a) On or before the 20th of each month, file a monthly report, on a form prescribed and furnished by the division of vehicles, listing all sales or transfers, except sales or transfers by a first or second stage manufacturer to a vehicle dealer of new or used vehicles, including the name and address of the purchaser or transferee, date of sale the serial or identification number of the vehicle, and such other information as the division may require.

(b) Salvage vehicle dealers shall, in addition to their monthly sales report *for used vehicles, if applicable*, file a quarterly report on a form prescribed and furnished by the division, listing all vehicles *for which have been or will be dismantled, disassembled or converted to scrap and sold to a scrap processor.* ~~Any titles to the vehicles in the possession of the vehicle dealer must accompany the quarterly report~~ *the major component part containing the public vehicle identification number, or engine number if manufactured prior to 1981, has been sold or disposed. The certificate of title or transfer certificate for vehicles listed must*



*accompany the quarterly report.*

(c) Make available during regular business hours to any employee of the patrol for the purpose of investigation or inspection, all records concerning vehicles purchased, sold or exchanged during the preceding 12 months, including certificates of title on all vehicles owned by the dealership, except those titles surrendered pursuant to subsection (b).

(d) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the division and return the dealer's license and dealer plates, and the division upon receipt of such notice and plates shall cancel the dealer's license, except that such dealer may, upon payment of 50% of the annual fee to the division, have the license and dealer plates assigned to the purchaser of the business.

(e) In addition to the requirements of subsection (a), any dealer paying a commission or fee to a broker shall report to the division, on the monthly sales report, the name of the broker and the broker's license number.

(f) Dealers, licensed as brokers must in addition to the requirements of subsection 9(a) include on the monthly sales reports, the name of the seller, the transferor or dealer that owns the vehicle and whether the seller or the purchaser paid the broker's fee or commission.

(g) Lending agencies licensed under this act, which sell two or less repossessed vehicles a month, shall not be required to file the monthly reports under subsection (a), except that such lending agencies shall report annually, on a form prescribed and furnished by the division, the total number of sales or transfers of such vehicles.

Sec. 6. K.S.A. 1992 Supp. 8-1, 137 is hereby amended as follows:

**Vehicles sold for salvage, no certificate of title may be issued.**

(a) If any vehicle for which a certificate of title has been issued shall be dismantled, disassembled or recycled by selling such vehicle to a scrap processor for recycling after the salvageable parts have been removed by a licensed salvage vehicle dealer as defined in K.S.A. 8-2401, and amendments thereto, such dealer shall surrender the original or duplicate title to the division with the word salvage or junk written or stamped across its face and no certificate of title of any type shall be issued nor any registration allowed again for such vehicle

(b) *When any major component part, as defined in K.S.A. 8-2401 and amendments thereto, is sold, a notarized bill of sale and a copy of the vehicle title must be given to the buyer and accompany such major component part as proof of legal possession of the major component part.*