

No. 145, S.]

[Published October 14, 1961.

CHAPTER 560

AN ACT to repeal 341.49 (1); to renumber 110.09, 110.095, 341.48 (1) to (3), 341.49 (2) and (3), 342.35 to 342.38, 342.40 to 342.43; to renumber and amend 341.50, 341.54, 341.56; to amend 218.01 (1) (a) 1, (c), (k) and (n), (2) (bd) 1, (be), (c) and (d) (intro. par.), (2a) (a), (b) and (c), as renumbered, (3) (a) 1, (b) (3a) (a), (b) and (c), as renumbered, (8) (intro. par.) and (c), 218.10 (6), as renumbered, 218.22 (3), as renumbered, 218.32 (3), as renumbered, 341.51 (4) (intro. par.) and (5), as renumbered, and 341.60; and to create 218.01 (1) (u), (1b), (2) (bc) and subchapters VI, VII and VIII (heading) and (titles) of chapter 218, 218.10 (7), 218.22 (4) and 218.32 (4) of the statutes, relating to the reorganization of the statutes relating to the licensing of mobile home dealers, motor vehicle salvage dealers, motor vehicle auction dealers and dealers in trailers and semitrailers.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 110.09 and 110.095 of the statutes are renumbered 218.10 and 218.11, respectively, and 218.10 (6), as renumbered, is amended to read:

218.10 (6) The department may *deny*, suspend or revoke a license

*\*\*\* on the following grounds:*

(a) *Proof of unfitness.*

(b) *Material misstatement in application for license.*

(c) *Filing a materially false or fraudulent income tax return as certified by the department of taxation.*

(d) *Wilful failure to comply with any provision of this section or any rule promulgated by the commissioner under this section.*

- (e) *Wilfully defrauding any retail buyer to the buyer's damage.*
- (f) *Wilful failure to perform any written agreement with any retail buyer.*
- (g) *Failure or refusal to furnish and keep in force any bond required.*
- (h) *Having made a fraudulent sale, transaction or repossession.*
- (i) *Fraudulent misrepresentation, circumvention or concealment through whatsoever subterfuge or device of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer.*
- (j) *Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail instalment contracts and the redemption and resale of such goods.*
- (k) *Having indulged in any unconscionable practice relating to said business.*
- (L) *Having charged interest in excess of 15 per cent per annum.*
- (m) *Having sold a retail instalment contract to a sales finance company not licensed hereunder.*
- (n) *Having violated any law relating to the sale, distribution or financing of mobile homes.*

SECTION 2. 218.01 (1) (a) 1, (c), (k) and (n) of the statutes are amended to read:

218.01 (1) (a) 1. For commission, money or other thing of value, sells, exchanges, buys \* \* \*, *rents \* \* \* with the option of purchase*, offers or attempts to negotiate a sale or exchange of an interest in motor vehicles; or,

(c) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles. *Any motor vehicle salesman licensed hereunder shall be licensed to sell only for one dealer at a time.*

(k) "Motor vehicle" means any motor driven or trailer type vehicle required to be registered under ch. 341 *except semitrailers or trailers designed for use in combination with truck or truck tractor, and except that mobile home dealers and salesmen are not required to be licensed under s. 218.01 (2) (d) 1 and 5.*

(n) "Manufacturer" means any person, resident or nonresident who manufactures or assembles motor vehicles \* \* \*.

SECTION 2m. 218.01 (1b) of the statutes is created to read:

218.01 (1b) **LICENSES FOR DEALERS, DISTRIBUTORS, MANUFACTURERS OR TRANSPORTERS OF SEMITRAILERS AND TRAILERS.** Subject to ch. 180 where applicable, any dealer, distributor, manufacturer or transporter of semitrailers or trailers designed for use in combination with a truck or truck tractor is deemed licensed under this section where for purposes of chs. 341 and 342 license under this section is required. This subsection is enacted to remove an undue burden on interstate commerce from a class of commercial transactions in which the business character of the parties does not require the protection provided by this section and to promote the expansion of credit for truck operators who require banking and financing facilities throughout the United States.

SECTION 2r. 218.01 (2) (c) and (d) (intro. par.) of the statutes are amended to read:

218.01 (2) (c) All licenses shall be granted or refused within \* \* \* 60 days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted,

except that where a complaint of unfair cancellation of dealer \* \* \* *agreement* is in the process of being heard, no replacement application for such \* \* \* *agreement* shall be considered until a decision is rendered by the department.

(d) (intro. par.) The license fee for each calendar year, or part thereof, shall be \* \* \* :

SECTION 3. 218.01 (1) (u) of the statutes is created to read:

218.01 (1) (u) "Agreement" means contract or franchise or any other terminology used to describe the contractual relationship between manufacturers, distributors, importers and dealers.

SECTION 4. 218.01 (2) (bc) of the statutes is created to read:

218.01 (2) (bc) Except as provided in this subsection every dealer and distributor of new motor vehicles other than power-driven cycles or motor bicycles, shall, at the time he applies for a license, file with the department a certified copy of his written agreement and a certificate of appointment as dealer or distributor, respectively. The certificate of appointment shall be signed by an authorized agent of the manufacturer of domestic vehicles on direct manufacturer-dealer agreements; or, where the manufacturer is wholesaling through an appointed distributorship by an authorized agent of the distributor on indirect distributor-dealer agreements. The certificate shall be signed by an authorized agent of the importer on direct importer-dealer agreements of foreign-made vehicles; or, by an authorized agent of the distributor on indirect distributor-dealer agreements. The distributor's certificate of appointment shall be signed by an authorized agent of the manufacturer of domestic vehicles; or, by an agent of the manufacturer or importer of foreign manufactured vehicles.

SECTION 5. 218.01 (3) (a) 1 of the statutes is amended to read:

218.01 (3) (a) 1. Proof of unfitness \* \* \* .

SECTION 6. 218.01 (3) (b) and (8) (intro. par.) and (c) of the statutes are amended to read:

218.01 (3) (b) The licensor may without notice deny the application for a license within \* \* \* 60 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 licensor shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.

(8) (intro. par.) Any person \* \* \* violating any of the provisions of this section *except sub. (3) (a) 1, 4, 6, 7, 11, 13 and 20* shall be \* \* \* punished as follows:

(c) Any person violating any provision of this section *except sub. (3) (a) 1, 4, 6, 7, 11, 13 and 20* or a lawful order issued thereunder for which there is no *other* specific penalty \* \* \* *herein may be fined* not less than \$25 and not more than \$100, and \* \* \* *imprisoned* not to exceed 90 days, or both \* \* \* . *In the alternative of the department's prerogative of instituting charges under sub. (3), the department may await a conviction under this subsection and the licensor may cancel the license of the offending licensee without a hearing upon receipt of a certificate of the conviction. The license and registration of such licensee shall be surrendered to any police officer upon the direction of the department without any refund of fees paid. Any license so canceled shall not be renewed during the current year.*

SECTION 7. Subchapter VI (heading) and (title) of chapter 218 of the statutes is created to read:

SUBCHAPTER VI.

MOBILE HOME DEALERS.

(To head ss. 218.10 and 218.11)

SECTION 7a. 218.10 (7) of the statutes is created to read:

218.10 (7) PROCEDURE IN DENIAL, SUSPENSION OR REVOCATION. (a) The licensor may without notice deny the application for a license within 60 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 licensor shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.

(b) No license shall be suspended or revoked except after a hearing thereon. The licensor shall give the licensee at least 5 days' notice of the time and place of such hearing. The order suspending or revoking such license shall not be effective until after 10 days' written notice thereof to the licensee, after such hearing has been had; except that the licensor, when in its opinion the best interest of the public or the trade demands it, may suspend a license upon not less than 24 hours' notice of hearing and with not less than 24 hours' notice of the suspension of the license.

(c) The licensor may inspect the pertinent books, records, letters and contracts of a licensee. The actual cost of each such examination shall be paid by such licensee so examined within 30 days after demand therefor by the licensor, and the licensor may maintain an action for the recovery of such costs in any court of competent jurisdiction.

SECTION 8. Subchapter VII (heading) and (title) of chapter 218 of the statutes is created to read:

SUBCHAPTER VII.

MOTOR VEHICLE SALVAGE DEALERS.

(To head ss. 218.20 to 218.23)

SECTION 8a. 218.22 (4) of the statutes is created to read:

218.22 (4) PROCEDURE IN DENIAL, SUSPENSION OR REVOCATION. (a) The licensor may without notice deny the application for a license within 60 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 licensor shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.

(b) No license shall be suspended or revoked except after a hearing thereon. The licensor shall give the licensee at least 5 days' notice of the time and place of such hearing. The order suspending or revoking such license shall not be effective until after 10 days' written notice thereof to the licensee, after such hearing has been had; except that the licensor, when in its opinion the best interest of the public or the trade demands it, may suspend a license upon not less than 24 hours' notice of hearing and with not less than 24 hours' notice of the suspension of the license.

(c) The licensor may inspect the pertinent books, records, letters and contracts of a licensee. The actual cost of each such examination shall be paid by such licensee so examined within 30 days after demand therefor by the licensor, and the licensor may maintain an action for the recovery of such costs in any court of competent jurisdiction.

SECTION 9. Subchapter VIII (heading) and (title) of chapter 218 of the statutes is created to read:

SUBCHAPTER VIII.  
MOTOR VEHICLE AUCTION DEALERS.  
(To head ss. 218.30 to 218.33)

SECTION 9a. 218.32 (4) of the statutes is created to read:

218.32 (4) PROCEDURE IN DENIAL, SUSPENSION OR REVOCATION. (a) The licensor may without notice deny the application for a license within 60 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 licensor shall set the time and place of hearing a review of such denial, the same to be heard with reasonable promptness.

(b) No license shall be suspended or revoked except after a hearing thereon. The licensor shall give the licensee at least 5 days' notice of the time and place of such hearing. The order suspending or revoking such license shall not be effective until after 10 days' written notice thereof to the licensee, after such hearing has been had; except that the licensor, when in its opinion the best interest of the public or the trade demands it, may suspend a license upon not less than 24 hours' notice of hearing and with not less than 24 hours' notice of the suspension of the license.

(c) The licensor may inspect the pertinent books, records, letters and contracts of a licensee. The actual cost of each such examination shall be paid by such licensee so examined within 30 days after demand therefor by the licensor, and the licensor may maintain an action for the recovery of such costs in any court of competent jurisdiction.

SECTION 10. 341.48 (1) to (3) of the statutes are renumbered 341.51 (4) to (6), respectively, and 341.51 (4) (intro. par.) and (5), as renumbered, are amended to read:

341.51 (4) (intro. par.) Except as provided in sub. \* \* \* (6), every dealer, distributor and manufacturer shall file with the department and every transporter may file with the department a duly acknowledged application for registration which shall contain:

(5) Except as provided in sub. \* \* \* (6), any dealer, distributor or manufacturer engaged in business in this state who fails to apply for registration or fails to apply for separate registrations for each Wisconsin municipality in which such dealer, distributor or manufacturer has an established place of business may be fined not more than \$200 or imprisoned not more than 6 months or both.

SECTION 11. 341.49 (1) of the statutes is repealed.

SECTION 12. 341.49 (2) and (3) of the statutes are renumbered 218.01 (2) (bd) and (be) and 218.01 (2) (bd) 1 and (be), as renumbered, are amended to read:

218.01 (2) (bd) 1. A dealer or distributor need not file a \* \* \* *written agreement* if the manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships \* \* \* utilizes the identical basic \* \* \* *agreement* for all its dealers or distributors in Wisconsin and certifies in the certificate of appointment that such blanket agreement is on file and such written agreement with such dealer or distributor, respectively, is identical with the filed blanket agreement, and has filed with the department one such \* \* \* *agreement* together with a list of authorized dealers or distributors. Such manufacturer, distributor or importer shall notify the department immediately of the appointment of any additional

dealers or distributors, of any revisions of or additions to the basic \* \* \* *agreement* on file, or of any individual dealer or distributor supplements to such \* \* \* *agreement*. Such manufacturer, distributor or importer shall notify *the dealer or distributor and forward a copy of such notice* to the department of the discontinuation or cancellation of the \* \* \* *agreement* of any of its dealers or distributors at least 60 days before the effective date thereof together with the specific grounds for cancellation of the \* \* \* *agreement*, if canceled. \* \* \* *Agreements and certificates of appointment* are deemed to be continuing unless the manufacturer, distributor or importer has notified the department of the discontinuation or cancellation of the \* \* \* *agreement* of any of its dealers or distributors, and annual renewal of certifications filed as provided in this subsection is not necessary.

(be) Any manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships who has filed with the department \* \* \* *an agreement* used by all its dealers or distributors in this state together with a list of all such dealers or distributors who fails to notify the department of any revisions, changes or additions when and as required by \* \* \* *par. (bd)* may be fined not more than \$200 or imprisoned not more than 6 months or both.

SECTION 13. 341.50 of the statutes is renumbered 218.01 (3) (bf) 1, 2 and 3, respectively, and amended to read:

218.01 (3) (bf) 1. The department shall not \* \* \* *license* as a dealer an applicant for the sale of motor vehicles at retail unless such applicant owns or leases a permanent building wherein there are facilities to display automobiles and facilities to repair functional and nonfunctional parts of automobiles and where replacement parts, repair tools and equipment to service automobiles are kept, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. A residence, tent or temporary stand is not a sufficiently permanent place of business within the meaning of this \* \* \* *paragraph*.

2. An approved service contract with an established repair shop having the repair parts and repair facilities specified in \* \* \* *subd. 1* shall serve in lieu of the applicant's owning or leasing his own repair facilities if such service connection is within a reasonable distance from the applicant's place of business and if such service connection guarantees in writing the making of the repairs or replacements ordered by the dealer.

3. This \* \* \* *paragraph* does not apply to persons who deal only in power-driven cycles or motor bicycles.

SECTION 14. 341.54 of the statutes is renumbered 218.01 (2a) (a), (b), (c) and (d), respectively, and 218.01 (2a) (a), (b) and (c), as renumbered, are amended to read:

218.01 (2a) (a) Before changing the location of his place of business or opening a new place of business in a municipality in which he is authorized to do business, a \* \* \* *licensed* dealer, distributor, or manufacturer shall apply to the department for \* \* \* *an amended license*. The department shall issue such \* \* \* *license* without charge.

(b) Whenever a \* \* \* *licensed* dealer, distributor, manufacturer or transporter opens a new place of business, he shall promptly report such fact, including the address thereof, to the department.

(c) Whenever a \* \* \* *licensed* dealer, distributor or manufacturer discontinues or disposes of his business, he shall promptly report such fact to the department and return the *license and* registration plates issued to him.

SECTION 15. 341.56 of the statutes is renumbered 218.01 (3a) (a), (b), (c) and (d), respectively, and 218.01 (3a) (a), (b) and (c), as renumbered, are amended to read:

218.01 (3a) (a) If a dealer, distributor or manufacturer is convicted under s. 341.55 (1) a second or subsequent time within the same registration year, the department shall revoke the \* \* \* *license* of such dealer, distributor or manufacturer for a period not to exceed one year. For the purposes of this \* \* \* *paragraph*, the conviction of the employe of a dealer, distributor or manufacturer shall be counted as a conviction of the employer.

(b) If a transporter is convicted under s. 341.55 (3) a second or subsequent time within the same \* \* \* *license* year, the department shall revoke the \* \* \* *license* of such transporter for a period not to exceed one year.

(c) A dealer, distributor, manufacturer or transporter whose \* \* \* *license* has been revoked shall forthwith surrender his registration plates to a traffic officer or peace officer designated by the department. A dealer, distributor, manufacturer or transporter who fails to return the plates as required by this \* \* \* *subsection* may be fined not more than \$200 or imprisoned not more than 6 months or both.

SECTION 16. 341.60 of the statutes is amended to read:

341.60 Any person who gives a false or fictitious name or address in an application for *license* or registration or who makes application for *license* or registration in the name of a person other than the true owner, or true owner and lessee, may be fined not more than \$200 or imprisoned not more than 6 months or both.

SECTION 17. 342.35 to 342.38 of the statutes are renumbered 218.20, 218.21, 218.22 (1) (2) (3) and (5) and 218.23, respectively, and 218.22 (3), as renumbered, is amended to read:

218.22 (3) \* \* \* The department \* \* \* may \* \* \* *deny, suspend or revoke* a license \* \* \* *on any of the following grounds*:

(a) *Proof of unfitness.*

(b) *Material misstatement in application for license.*

(c) *Filing a materially false or fraudulent income tax return as certified by the department of taxation.*

(d) *Wilful failure to comply with any provision of this section or any rule promulgated by the commissioner under this section.*

(e) *Wilfully defrauding any retail buyer to the buyer's damage.*

(f) *Wilful failure to perform any written agreement with any retail buyer.*

(g) *Failure or refusal to furnish and keep in force any bond required.*

(h) *Having made a fraudulent sale, transaction or repossession.*

(i) *Fraudulent misrepresentation, circumvention or concealment through whatsoever subterfuge or device of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer.*

(j) *Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail instalment contracts and the redemption and resale of such goods.*

(k) *Having indulged in any unconscionable practice relating to said business.*

(L) *Having charged interest in excess of 15 per cent per annum.*

(m) *Having sold a retail instalment contract to a sales finance company not licensed hereunder.*

(n) *Having violated any law relating to the sale, distribution or financing of salvaged parts.*

(o) *Failure to comply with ss. 218.20 to 218.23.*

SECTION 18. 342.40 to 342.43 of the statutes are renumbered 218.30 to 218.33, respectively, and 218.32 (3), as renumbered, is amended to read:

218.32 (3) The department \* \* \* may deny, suspend or revoke a license \* \* \* on the following grounds:

(a) *Proof of unfitness.*

(b) *Material misstatement in application for license.*

(c) *Filing a materially false or fraudulent income tax return as certified by the department of taxation.*

(d) *Wilful failure to comply with any provision of this section or any rule promulgated by the commissioner under this section.*

(e) *Wilfully defrauding any retail buyer to the buyer's damage.*

(f) *Wilful failure to perform any written agreement with any retail buyer.*

(g) *Failure or refusal to furnish and keep in force any bond required.*

(h) *Having made a fraudulent sale, transaction or repossession.*

(i) *Fraudulent misrepresentation, circumvention or concealment through whatsoever subterfuge or device of any of the material particulars or the nature thereof required hereunder to be stated or furnished to the retail buyer.*

(j) *Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail instalment contracts and the redemption and resale of such goods.*

(k) *Having indulged in any unconscionable practice relating to said business.*

(L) *Having charged interest in excess of 15 per cent per annum.*

(m) *Having sold a retail instalment contract to a sales finance company not licensed hereunder.*

(n) *Having violated any law relating to the sale, distribution or financing of motor vehicles.*

(o) *Failure to comply with ss. 218.30 to 218.33.*

SECTION 19. Wherever reference is made in s. 342.20 (2) (a) to s. 110.09, the reference is changed to s. 218.10. The revisor of statutes shall show the change in printing the statutes.

SECTION 20. Wherever reference is made in s. 342.37 (1) and (4), as renumbered, to ss. 342.35 to 342.38 the reference is changed to ss. 218.20 to 218.23. The revisor of statutes shall show the change in printing the statutes.

SECTION 21. Wherever reference is made in s. 342.42 (1), as renumbered, to ss. 342.40 to 342.43 the reference is changed to ss. 218.30 to 218.33. The revisor of statutes shall show the changes in printing the statutes.

Approved October 2, 1961.