



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5171/1
EVM:klm&amn

2017 ASSEMBLY BILL 852

January 19, 2018 - Introduced by Representatives JACQUE, STEFFEN and BERCEAU, sponsored by Senators COWLES, TESTIN and HANSEN. Referred to Committee on Transportation.

1 **AN ACT to amend** 218.0116 (2), 218.0116 (4) (a) and 218.0116 (4) (c); and **to**
2 **create** 218.0116 (4) (am) of the statutes; **relating to:** denial, suspension, and
3 revocation of certain licenses related to motor vehicle dealers.

Analysis by the Legislative Reference Bureau

This bill changes the procedures for denials and suspensions and revocations of certain licenses issued to manufacturers, importers, distributors, or dealers of motor vehicles.

Under current law, a manufacturer, importer, distributor, or dealer of motor vehicles that wishes to sell motor vehicles in this state must be licensed by the Department of Transportation. Currently, DOT may deny an application for a license by providing to the applicant a written notice that states the grounds for the denial. Within 30 days after receiving the notice, the applicant may petition the Division of Hearings and Appeals for review of the denial. Also under current law, for a variety of reasons enumerated in existing law, DOT may seek suspension or revocation of a license. The procedure for a suspension or revocation hearing is the following, in general: 1) DOT provides the licensee with notice of the time and place of the hearing at least five days before the hearing, 2) a hearing is conducted before DHA, and 3) DHA issues an order suspending or revoking a license, which may take effect ten days after notice of the suspension or revocation is provided to the licensee. An exception to this procedure allows DOT to expedite a hearing if, in DOT's opinion, the best interest of the public or the trade demands it. Under this exception, DOT must provide at least 24 hours notice before the hearing and the suspension may take effect 24 hours after notice of the suspension is provided to the licensee.

ASSEMBLY BILL 852

This bill changes licensing and suspension and revocation procedures in several respects. First, under this bill, for license denials and license suspensions and revocations, DOT is responsible for the initial determination, and a licensee may appeal the determination to DHA. Second, this bill provides that, in certain cases, a suspension or revocation of a license may take effect immediately. Specifically, a license suspension or revocation takes effect immediately if DOT determines that immediate suspension or revocation is appropriate and alleges any of the following: 1) a license violation in the course of a consignment sale; 2) a sale of a motor vehicle without a dealer license; or 3) intentionally fraudulent conduct related to certificates of title, mileage disclosure, or use of personal identifying information.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 218.0116 (2) of the statutes is amended to read:

2 218.0116 (2) The licensor may without prior notice deny the application for a
3 license within 60 days after receipt of the application by written notice to the
4 applicant, stating the grounds for the denial. Within 30 days after receiving the
5 notice, the applicant, for a denial by the division of banking, may petition the division
6 of hearings and appeals or, for a denial by the department of transportation, may
7 petition the department of transportation to conduct a hearing to review the denial,
8 and, for review of a denial by the division of banking, a hearing shall be scheduled
9 with reasonable promptness and, for review of a denial by the department of
10 transportation, a hearing shall be held within 45 days. Within 30 days after
11 receiving an adverse decision reviewing a denial of the department of transportation
12 under this subsection, an applicant may appeal the decision to the division of
13 hearings and appeals in the department of administration. The division of hearings
14 and appeals shall hold an appeal hearing under this subsection and issue its decision
15 within 30 days of receiving the appeal.

ASSEMBLY BILL 852

1 **SECTION 2.** 218.0116 (4) (a) of the statutes is amended to read:

2 218.0116 (4) (a) No Except as provided in par. (am), no license may be
3 suspended or revoked except after a hearing on the possible suspension or
4 revocation. Except as provided in par. (b), the licensor shall give the licensee at least
5 5 days' notice of the time and place of the hearing. The Except as provided in par.
6 (am), the order suspending or revoking the license shall not be effective until after
7 10 days' written notice of the order to the licensee, after the hearing under this
8 paragraph has been held.

9 **SECTION 3.** 218.0116 (4) (am) of the statutes is created to read:

10 218.0116 (4) (am) A license suspension or revocation takes effect immediately
11 if the department of transportation determines that immediate suspension or
12 revocation is appropriate and any of the following is alleged:

- 13 1. A violation of ss. 218.0101 to 218.0163 in the course of a consignment sale.
14 2. A sale of a motor vehicle without a license under s. 218.0114 (1).
15 3. Intentionally fraudulent conduct related to certificates of title, mileage
16 disclosure, or use of personal identifying information, as defined in s. 943.201 (1) (b).

17 **SECTION 4.** 218.0116 (4) (c) of the statutes is amended to read:

18 218.0116 (4) (c) Matters involving suspensions or revocations brought before
19 the department of transportation shall be heard and decided upon by the ~~division of~~
20 ~~hearings and appeals.~~ ~~If the department of transportation requests the division of~~
21 ~~hearings and appeals to hear a matter brought before the department of~~
22 ~~transportation under par. (b), the division of hearings and appeals shall hear and~~
23 ~~decide the matter within 30 days after the date of the department of transportation's~~
24 ~~request.~~ Within 30 days after receiving a decision of suspension or revocation under
25 this paragraph, an applicant may appeal the decision to the division of hearings and

ASSEMBLY BILL 852

SECTION 4

1 appeals in the department of administration. The division of hearings and appeals
2 shall hold an appeal hearing under this paragraph and issue its decision within 30
3 days of receiving the appeal.

4 **SECTION 5. Initial applicability.**

5 (1) This act first applies to a license denial, suspension, or revocation occurring
6 on the effective date of this subsection.

7 (END)