

2003 DRAFTING REQUEST

Bill

Received: 01/13/2003

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Licensing requirements for motor vehicle dealers and wholesalers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?							
/P1	phurley 03/10/2003	jdyer 03/13/2003	rschluet 03/13/2003	_____	sbasford 03/13/2003		
	phurley 05/16/2003	jdyer 03/13/2003		_____			
		jdyer 05/16/2003		_____			

FOR ASSEMBLY
See Back

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		jdyer 05/20/2003		_____			
/P2	phurley 05/28/2003	jdyer 05/28/2003	rschluet 05/20/2003	_____	sbasford 05/20/2003		
		jdyer 05/28/2003		_____			
/P3	phurley 06/18/2003	csicilia 08/28/2003	rschluet 05/28/2003	_____	sbasford 05/28/2003		
	phurley 08/28/2003			_____			
/1	lemery 08/28/2003		pgreensl 08/28/2003	_____	lemery 08/28/2003	lemery 08/28/2003	

FE Sent For:

*None
Needed*

<END>

2003 DRAFTING REQUEST

Bill

Received: **01/13/2003**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Stephen Freese (608) 266-7502**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Transportation - mot veh dealers**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Rep.Freese@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Licensing requirements for motor vehicle dealers and wholesalers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	phurley 03/10/2003	jdyer 03/13/2003	rschluet 03/13/2003	_____	sbasford 03/13/2003		
	phurley 05/16/2003	jdyer 03/13/2003		_____			
		jdyer 05/16/2003		_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		jdyer 05/20/2003		_____			
/P2	phurley 05/28/2003	jdyer 05/28/2003	rschluet 05/20/2003	_____	sbasford 05/20/2003		
		jdyer 05/28/2003		_____			
/P3	phurley 06/18/2003	csicilia 08/28/2003	rschluet 05/28/2003	_____	sbasford 05/28/2003		
	phurley 08/28/2003			_____			
/1			pgreensl 08/28/2003	_____	lemery 08/28/2003		

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 01/13/2003

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Licensing requirements for motor vehicle dealers and wholesalers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?							
/P1	phurley 03/10/2003	jdyer 03/13/2003	rschluet 03/13/2003		sbasford 03/13/2003		
	phurley 05/16/2003	jdyer 03/13/2003					
		jdyer 05/16/2003					

Handwritten notes and signatures: 8/28, 8/28, P8, P8/M

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

		jdyer 05/20/2003		_____			

/P2	phurley 05/28/2003	jdyer 05/28/2003	rschluet 05/20/2003	_____	sbasford 05/20/2003		
		jdyer 05/28/2003		_____			

/P3			rschluet 05/28/2003	_____	sbasford 05/28/2003		

11 jys 8/28/03

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 01/13/2003

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Licensing requirements for motor vehicle dealers and wholesalers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?							
/P1	phurley 03/10/2003	jdyer 03/13/2003	rschluet 03/13/2003	_____	sbasford 03/13/2003		
	phurley 05/16/2003	jdyer 03/13/2003		_____			
		jdyer 05/16/2003		_____			

P3 5/28 JLD

[Handwritten signature]
5-28-3

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

jdye
05/20/2003

/P2

rschluet
05/20/2003

sbasford
05/20/2003

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 01/13/2003

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Licensing requirements for motor vehicle dealers and wholesalers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?							
/P1	phurley 03/10/2003	jdye 03/13/2003	rschluet 03/13/2003		sbasford 03/13/2003		

Handwritten notes and signatures:

1/2 3/20 jld

Large signature: *[Signature]*

5-2003

JF

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 01/13/2003

Received By: phurley

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing:

This file may be shown to any legislator: NO

Drafter: phurley

May Contact:

Addl. Drafters:

Subject: Transportation - mot veh dealers

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

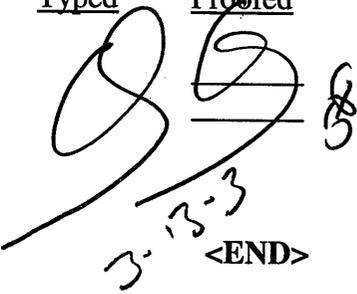
Licensing requirements for motor vehicle dealers and wholesalers

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	phurley	PI 3/12 jld					
----	---------	-------------	---	---	--	--	--

FE Sent For:

3-13-3
<END>



Wisconsin Automobile & Truck Dealers Association

150 E. Gilman Street—Suite A
Madison, WI 53703
(608) 251-5577 FAX: 251-4379

Mailing Address:
P.O. Box 5345, Madison, WI 53705-0345
www.watda.org

GARY D. WILLIAMS
President

FACSIMILE COVER SHEET

TO:	Bob Richards
COMPANY:	Official Reg. Firm
FAX:	282-3650

FROM:	Mary Ann Gerrard
COMPANY:	Wisconsin Auto & Truck Dealers Association
PHONE:	608-251-5577 ext. 106
FAX:	
DATE:	1-6-02
PAGES INCLUDING COVER PAGE	4

IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE CALL 608-251-5577. THANK YOU.

Bob,
 Would you submit this material for drafting?
 These are changes relating to the ~~board~~ dealers need to have in place in order to be licensed.
 Thank you,
 Mary Ann

Increase Bond \$25,000 - \$50,000218.0114 (5) (a) 1

A motor vehicle dealer or an applicant for a motor vehicle dealer license should provide and maintain in force a bond or irrevocable letter of credit of not less than ~~\$25,000~~ \$50,000 or, if the dealer or applicant sells or proposes to sell motorcycles and not other types of motor vehicles, a bond or irrevocable letter of credit of not less than \$5,000. The bond or letter of credit shall be executed in the name of the department of transportation for the benefit of any person who sustains a loss because of an act of a motor vehicle dealer, that constitutes grounds for the suspension or revocation of a license under SS. 218.0101 to 218.0163.

218.0114(20)(b) If the licensor has reasonable cause to doubt the financial responsibility of the applicant or licensee or the compliance by the applicant or licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or licensee to furnish and maintain an additional bond in the form, amount and with the sureties it approves, but not less than \$5,000, nor more than \$100,000, conditioned upon the applicant or licensee comply with the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of the license under ss. 281.0101 to 218.0163. The bonds shall be executed in the name of the department of transportation for the benefit of any aggrieved person who sustains a loss because of an act of the dealer that constitutes grounds for the suspension or revocation of its license under ss. 218.010 to 218.0163; except that the aggregate liability of the surety to all aggrieved parties shall, in no event, exceed the amount of the bond. The bonding requirements in this paragraph shall not apply to manufacturers, factory branches, and their agents and is in addition to the bond or letter of credit required of a motor vehicle dealer under sub (5)(a).

Bonding Wholesalers

Amend the following sections.

218.0101(6) "Distributor" means a person, resident or nonresident who in whole or part, sells or distributes new motor vehicles to motor vehicle dealers, or who maintains distributor representatives.

218.0101(7) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes.

218.0101(8) "Distributor representative" means a representative similarly employed by a distributor or distributor branch.

Create section 218.0101(38)

218.0101 (38) "Wholesaler" or "Wholesale Dealer" means a person, other than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who does any of the following:

- a. Sells more than 5 motor vehicles in any 12 month period to motor vehicle dealers, motor vehicle auction dealers or salvage dealers.
- b. Purchases used motor vehicles from motor vehicle dealers or at a motor vehicle auction; unless the conditions of sub c. 1 and 2 of this section are satisfied; or,
- c. Purchases used motor vehicles on behalf of motor vehicle dealers, unless the person buying the vehicle satisfies both the following conditions:
 1. The person is employed by and receives compensation from one and only one dealer for service related to the sale or purchase of motor vehicles; and

2. The person conducts all financial transactions involving the sale or purchase of motor vehicles in the name of the employing dealer, under the dealer's supervision, and using the dealer's funds and financial accounts.

Create section 218.0114(5)(c)

218.0114 (5) (c)

All wholesalers or an applicant for a wholesaler license shall provide and maintain in force a bond or irrevocable letter of credit of not less than \$50,000. The bond or irrevocable letter of credit shall be executed in the name of the department of transportation for the benefit of any person who suffers a loss due to an act or omission by the wholesaler.

Soan

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1

AN ACT ...; relating to: wholesale motor vehicle dealers. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

2

SECTION 1. 218.0101 (6) of the statutes is amended to read:

3

218.0101 (6) "Distributor" or "~~wholesaler~~" means a person, resident or

4

nonresident who in whole or part, sells or distributes new motor vehicles to motor

5

vehicle dealers, or who maintains distributor representatives.

History: 1999 a. 31 ss. 15 to 53; 2001 a. 102.

6

SECTION 2. 218.0101 (7) of the statutes is amended to read:

7

218.0101 (7) "Distributor branch" means a branch office similarly maintained

8

by a distributor or ~~wholesaler~~ for the same purposes.

History: 1999 a. 31 ss. 15 to 53; 2001 a. 102.

9

SECTION 3. 218.0101 (8) of the statutes is amended to read:

1 218.0101 (8) "Distributor representative" means a representative similarly
2 employed by a distributor, or distributor branch [✓] ~~or wholesaler~~.

3 History: 1999 a. 31 ss. 15 to 53; 2001 a. 102.

3 **SECTION 4.** 218.0101 (38) [✓] of the statutes is created to read:

4 218.0101 (38) (a) ~~Wholesaler~~ [✓] or "wholesale dealer" means a person, other
5 than a licensed motor vehicle dealer or license ^d motor vehicle auction dealer, who does
6 any of the following:

7 1. Sells more than 5 motor vehicles in any ¹² month period to a motor vehicle
8 dealer, motor vehicle auction dealer, or salvage dealer.

9 2. Except as provided in par. (b), [✓] purchases used motor vehicles from a motor
10 vehicle dealer or at a motor vehicle auction.

11 3. Except as provided in par. (b), purchases used motor vehicles on behalf of a
12 motor vehicle dealer. [✓]

13 (b) A person is not a wholesaler or a [✓] wholesale dealer if the person is employed
14 by and receives compensation from only one motor vehicle dealer for services relating
15 to the sale or purchase of motor vehicles and the person conducts all financial
16 transactions involving the sale or purchase of motor vehicles in the name of the motor
17 vehicle dealer that employs him or her, under the supervision of the motor vehicle
18 dealer that employs him or her, and using the motor vehicle dealer's funds or
19 financial accounts.

20 **SECTION 5.** 218.0114 (5) (a) [✓] of the statutes is amended to read:

21 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
22 dealer license shall provide and maintain in force a bond or irrevocable letter of credit
23 of not less than ~~\$25,000~~ [✓] \$50,000 or, if the dealer or applicant sells or proposes to sell
24 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of

1 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
 2 name of the ~~department~~ ^{Plain} Department of ~~transportation~~ ^{Plain} Transportation for the benefit
 3 of any person who sustains a loss because of an act of a motor vehicle dealer that
 4 constitutes grounds for the suspension or revocation of a license under ss. 218.0101
 5 to 218.0163.

6 History: 1999 a. 31 ss. 57 to 104; 1999 a. 186.

7 **SECTION 6.** 218.0114 (5) (c) of the statutes is created to read:

8 218.0114 (5) (c) A wholesaler or a wholesale dealer [✓] or an applicant for a
 9 wholesaler or wholesale dealer license shall provide and maintain in force a bond or
 10 irrevocable letter of credit of not less than \$50,000. [✓] The bond or letter of credit [✓] shall
 11 be executed in the name of the ~~Department of~~ Transportation for the benefit of any
 12 person who sustains a loss because of an act or omission by the wholesaler or
 13 wholesale dealer.

14 **SECTION 7.** 218.0114 [✓](20) (b) of the statutes is amended to read:

15 218.0114 (20) (b) If the licensor has reasonable cause to doubt the financial
 16 responsibility of the applicant or licensee or the compliance by the applicant or
 17 licensee to furnish and maintain ^{↓ ↓} an additional bond in the form, amount and with
 18 the sureties it approves, but not less than \$5,000, nor more than \$100,000,
 19 conditioned upon the applicant or licensee complying with the statutes applicable to
 20 the licensee and as indemnity for any loss sustained by any person [✓] by reason of any
 21 acts of the licensee constituting grounds for suspension or revocation of the license
 22 under ss. 218.0101 to 218.0163. The bonds shall be executed in the name of the
 23 ~~department~~ ^{Plain} Department of ~~transportation~~ ^{Plain} Transportation for the benefit of any
 24 aggrieved ~~parties,~~ person who sustains a loss because of an act of the licensee that

✓ his or her

1 constitutes grounds for the suspension or revocation of its license under ss. 218.010 ①
2 to 218.0163, except that the aggregate liability of the surety to all aggrieved ~~parties~~ persons
3 shall, in no event, exceed the amount of the bond. The bonding requirements in this
4 paragraph shall not apply to manufacturers, factory branches, and their agents and
5 is in addition to the bond or letter of credit required of a motor vehicle dealer under
6 sub. (5) (a).

History: 1999 a. 31 ss. 57 to 104; 1999 a. 186.

7

(END)



Wisconsin Automobile & Truck Dealers Association

150 E. Cilman Street—Suite A
Madison, WI 53703
(608) 251-3577 FAX: 251-4379

Mailing Address:
P.O. Box 5345, Madison, WI 53705-0345
www.watda.org

CARY D. WILLI
FAX

FACSIMILE COVER SHEET

TO:	
COMPANY:	Bob Reichart
FAX:	Office of Rep. Fresno 282-3651
FROM:	
COMPANY:	Mary Ann Gerrard
PHONE:	Wisconsin Auto & Truck Dealers Association
FAX:	608-251-5577 ext. 106
DATE:	3-10-03
PAGES INCLUDING COVER PAGE	8

IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE CALL 608-251-5577. THANK YOU.

Bob,
These are the changes we would like to make to the franchise legislation Peggy Herley is drafting.

These changes should replace her earlier draft — Thank you
Mary Ann Gerrard

1. Option to Purchase

218.0114 Licenses, how granted; agreements, filing.

(9) (a) Except as provided in sub. (10), provisions of an agreement which do any of the following are void and prohibited:

...

4. Provide a manufacturer, importer or distributor with the right or option to compel the dealer or any of its owners to sell or transfer an ownership interest in the dealer or assets of the dealer to the manufacturer, importer or distributor or its assignee.

..

(d) Notwithstanding par. (a)4., an agreement may provide a manufacturer, importer or distributor with the right of first refusal to acquire the dealer's assets in the event of a proposed change of ownership or transfer of dealership assets if all of the requirements of s. 218.0134(4)(c) are met.

(10) Section 9 does not apply to any of the following:

(a) A settlement agreement that is entered into by a dealer or distributor voluntarily ~~and that waives rights, remedies or defenses with respect to a particular dispute existing when the settlement agreement is reached.~~

2. Separate Franchises

218.0116 Licenses, how denied, suspended or revoked.

(1) A license may be denied, suspended or revoked on the following grounds:

....

(v) Being a manufacturer, importer or distributor who fails or refuses to offer for sale to its same line-make franchised dealers all models manufactured or distributed for the line make. Such offer for sale may be subject to the manufacturer's, importer's or distributor's plan or system for the allocation, scheduling and delivery of such models that complies with the requirements of s. 218.0123. However, the failure to deliver any such motor vehicle shall not be considered a violation of this paragraph if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause over which the manufacturer, importer or distributor has no control. This paragraph does not prohibit reasonable requirements being imposed on dealers for the sale, marketing and servicing of particular models.

11364
3. **Warranty Service**

218.0116 Licenses, how denied, suspended or revoked.

(1) A license may be denied, suspended or revoked on the following grounds:

...

(w) Being a manufacturer, importer or distributor who performs warranty service or delivery and preparation work on motor vehicles not owned by it or who authorizes or permits a person to perform warranty service or delivery and preparation work on motor vehicles unless the person is a motor vehicle dealer with whom the manufacturer, importer or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's or distributor's motor vehicles. Provided, however, this paragraph shall not prohibit a manufacturer, importer or distributor from doing any of the following:

1. Authorizing the performance of warranty service and delivery and preparation work by a fleet owner, as defined in s. 218.0116(7)(d)4, on its own vehicles.

2. During the duration of circumstances that temporarily cause warranty service to not be otherwise reasonably available to one or more owners of the manufacturer's, importer's or distributor's vehicles, performing warranty service on such vehicles or authorizing the performance of warranty service on such vehicles by a person who is not a motor vehicle dealer with whom the manufacturer, importer, or distributor has entered into a franchise agreement for the sale and service of the manufacturer's, importer's or distributor's motor vehicles.

3. Attempting to repair a nonconformity, as defined in s. 218.0171(1)(f), to a vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer or distributor becoming subject to the requirements of s. 218.0171(2)(b).

4. **Waiver of Jury Trials**

218.0114 Licenses, how granted; agreements, filing.

(9) (a) Except as provided in sub. (10), provisions of an agreement which do any of the following are void and prohibited:

...
2. Prevent a dealer or distributor from bringing an action in a particular forum otherwise available under the law or waive the dealer's right to a jury trial.

*added
"or distributor"
etc.
Dmake*

5. Factory Stores

218.0121(3m) This section does not prohibit any of the following:

...

(b) A factory from holding an ownership interest in a dealership, if all of the following apply:

...

2. The dealer operator is unable to acquire full ownership of the dealership with his or her own assets or in conjunction with financial investments and loans from investors or lenders other than the factory holding an ownership interest in the dealership.

§. **Incorporation of Changes Into Damages Clause**

218.0163(1)(a) A violation by any other licensee of s. 218.0116(1)(bm), (f), (h), (hm), (i), (km), (L), (Lm), (mm), (pm), (q), (qm), (r), (rm), (s), (sm), (t) or (u), (v) or (w).

7. Initial Applicability

Initial applicability. This act first applies to a franchise agreement that exists or is entered into on the effective date of this Section.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

Regen

1 AN ACT *to amend* 218.0101 (6), 218.0101 (7), 218.0101 (8), 218.0114 (5) (a) and
2 218.0114 (20) (b); and *to create* 218.0101 (38) and 218.0114 (5) (c) of the
3 statutes; **relating to:** wholesale motor vehicle dealers.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 SECTION 1. 218.0101 (6) of the statutes is amended to read:
5 218.0101 (6) "Distributor" or "wholesaler" means a person, resident or
6 nonresident who in whole or part, sells or distributes new motor vehicles to motor
7 vehicle dealers, or who maintains distributor representatives.
8 SECTION 2. 218.0101 (7) of the statutes is amended to read:
9 218.0101 (7) "Distributor branch" means a branch office similarly maintained
10 by a distributor or wholesaler for the same purposes.

1 **SECTION 3.** 218.0101 (8) of the statutes is amended to read:

2 218.0101 (8) “Distributor representative” means a representative similarly
3 employed by a distributor, or distributor branch or wholesaler.

4 **SECTION 4.** 218.0101 (38) of the statutes is created to read:

5 218.0101 (38) (a) “Wholesaler” or “wholesale dealer” means a person, other
6 than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who
7 does any of the following:

8 1. Sells more than 5 motor vehicles in any 12-month period to a motor vehicle
9 dealer, motor vehicle auction dealer, or salvage dealer.

10 2. Except as provided in par. (b), purchases used motor vehicles from a motor
11 vehicle dealer or at a motor vehicle auction.

12 3. Except as provided in par. (b), purchases used motor vehicles on behalf of a
13 motor vehicle dealer.

14 (b) A person is not a wholesaler or a wholesale dealer if the person is employed
15 by and receives compensation from only one motor vehicle dealer for services relating
16 to the sale or purchase of motor vehicles and the person conducts all financial
17 transactions involving the sale or purchase of motor vehicles in the name of the motor
18 vehicle dealer that employs him or her, under the supervision of the motor vehicle
19 dealer that employs him or her, and using the motor vehicle dealer’s funds or
20 financial accounts.

21 **SECTION 5.** 218.0114 (5) (a) of the statutes is amended to read:

22 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
23 dealer license shall provide and maintain in force a bond or irrevocable letter of credit
24 of not less than ~~\$25,000~~ \$50,000 or, if the dealer or applicant sells or proposes to sell
25 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of

1 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
2 name of the department of transportation for the benefit of any person who sustains
3 a loss because of an act of a motor vehicle dealer that constitutes grounds for the
4 suspension or revocation of a license under ss. 218.0101 to 218.0163.

5 **SECTION 6.** 218.0114 (5) (c) of the statutes is created to read:

6 218.0114 (5) (c) A wholesaler or a wholesale dealer or an applicant for a
7 wholesaler or wholesale dealer license shall provide and maintain in force a bond or
8 irrevocable letter of credit of not less than \$50,000. The bond or letter of credit shall
9 be executed in the name of the department of transportation for the benefit of any
10 person who sustains a loss because of an act or omission by the wholesaler or
11 wholesale dealer.

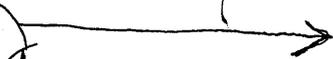
12 **SECTION 7.** 218.0114 (20) (b) of the statutes is amended to read:

13 218.0114 (20) (b) If the licensor has reasonable cause to doubt the financial
14 responsibility of the applicant or licensee or the compliance by the applicant or
15 licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or
16 licensee to furnish and maintain a- an additional bond in the form, amount and with
17 the sureties it approves, but not less than \$5,000, nor more than \$100,000,
18 conditioned upon the applicant or licensee complying with the statutes applicable to
19 the licensee and as indemnity for any loss sustained by any person by reason of any
20 acts of the licensee constituting grounds for suspension or revocation of the license
21 under ss. 218.0101 to 218.0163. The bonds shall be executed in the name of the
22 department of transportation for the benefit of any aggrieved parties, person who
23 sustains a loss because of an act of the licensee that constitutes grounds for the
24 suspension or revocation of his or her license under ss. 218.0101 to 218.0163, except
25 that the aggregate liability of the surety to all aggrieved parties persons shall, in no

1 event, exceed the amount of the bond. The bonding requirements in this paragraph
2 shall not apply to manufacturers, factory branches, and their agents and is in
3 addition to the bond or letter of credit required of a motor vehicle dealer under sub.

4 (5) (a).

5

✓ Insert A 

(END)

D-note



2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1468/P1ins
PJH:jld:rs

1 INSERT A:

2 SECTION 1. 218.0114 (9) (a) 2. ✓ of the statutes is amended to read:

3 218.0114 (9) (a) 2. Prevent a dealer or distributor from bringing an action in
4 a particular forum otherwise available under the law or waive the dealer's or
5 distributor's right to a jury trial. ✓

6 History: 1999 a. 31 ss. 57 to 104; 1999 a. 186.

6 SECTION 2. 218.0114 (9) (a) 4. ✓ of the statutes is created to read:

7 218.0114 (9) (a) 4. Provide ^g a manufacturer, importer, or distributor with the
8 right or option to compel the dealer or any of its owners to sell or transfer an
9 ownership interest in the dealer or assets of the dealer to the manufacturer, importer, ^{or}
10 distributor ^g or an assignee of the manufacturer, importer, or distributor. ✓

11 SECTION 3. 218.0114 (9) (d) ✓ of the statutes is created to read:

12 218.0114 (9) (d) Notwithstanding par. (a) 4., ✓ an agreement may provide a
13 manufacturer, importer, or distributor ✓ with the right of first refusal to acquire the
14 dealer's assets in the event of a proposed change of ownership or transfer of
15 dealership assets if all of the requirements of s. 218.0134 (4) (c) are met.

16 SECTION 4. 218.0114 (10) (a) ✓ of the statutes is amended to read:

17 218.0114 (10) (a) A settlement agreement that is entered into by a dealer or
18 distributor voluntarily ✓ ~~and that waives rights, remedies or defenses~~ with respect to
19 a particular dispute existing when the settlement agreement is reached.

20 History: 1999 a. 31 ss. 57 to 104; 1999 a. 186. ✓

20 SECTION 5. 218.0116 (1) (v) ✓ of the statutes is created to read:

21 218.0116 (1) (v) Being a manufacturer, importer, or distributor who fails or
22 refuses to offer for sale to its same line make franchised dealers all models
23 manufacture^d or distributed for the line make. such offer for sale may be subject to



INSERT
A CONT

1 the manufacturer's, importer's, or distributor's plan or system for the allocation,
2 scheduling, and delivery of such models that complies with the requirements of s.
3 218.0123. However, the failure to deliver any such motor vehicle shall not be
4 considered a violation of this paragraph if the failure is due to a lack of
5 manufacturing capacity, a strike or labor difficulty, a shortage or materials, a freight
6 embargo, or other cause beyond the control of the manufacture, importer, or
7 distributor. This paragraph does not prohibit reasonable requirements being
8 imposed on dealers for the sale, marketing, or servicing of particular models.

9
10 SECTION 6. 218.0116 (1) (w) of the statutes is created to read:

11 INSERT B (attached)

12 SECTION 7. 218.0121 (3m) (b) 2. of the statutes is amended to read:

13 218.0121 (3m) (b) 2. The dealer operator of the dealership is unable to acquire
14 full ownership of the dealership with his or her own assets or in conjunction with
15 ~~financial investments and loans from investors or lenders other than the factory~~
16 ~~holding an ownership interest in the dealership.~~

17 History: 1999 a. 31 s. 110, 186.

18 SECTION 8. 218.0163 (1) (a) of the statutes is amended to read:

19 218.0163 (1) (a) A violation by any other licensee of s. 218.0116 (1) (bm), (f), (h),
(hm), (i), (km), (L), (Lm), (mm), (pm), (q), (qm), (r), (rm), (s), (sm), (t) or ²(u), ^{plain}(v),
20 or (w).

21 History: 1999 a. 31 s. 283; 2001 a. 31.

22 SECTION 9. Initial applicability.

23 (1) This act first applies to a franchise agreement that exists or is entered into
on the effective date of this subsection.

(end ins A)

hert B

INSERT B
(insert into INSERT A)

BILL

1 218.0116 (1) (w) 1. Being a manufacturer, importer, [✓] or distributor who
 2 performs warranty service or delivery and preparation work on a motor vehicle that
 3 it does not own or who authorizes or permits a person to perform warranty service
 4 or delivery and preparation work on a motor vehicle unless the person is a motor
 5 vehicle dealer with whom the manufacturer, importer, or distributor has entered into
 6 a franchise agreement for the sale and service of the manufacturer's, importer's, or
 7 distributor's motor vehicles. This subdivision [✓] shall not prohibit a manufacturer,
 8 importer, or distributor from:

9 a. Authorizing the performance of warranty service and delivery and
 10 preparation work by a fleet owner, as defined in s. 218.0116 (7) (d) 4., on its own
 11 vehicles.

12 b. If warranty service is temporarily unavailable to one or more owners of the
 13 manufacturer's, importer's, or distributor's vehicles, performing warranty service on
 14 such vehicles or authorizing the performance of warranty service on such vehicles
 15 by a person who is not a motor vehicle dealer with whom the manufacturer, importer,
 16 or distributor has entered into a franchise agreement for the sale and service of the
 17 manufacturer's, importer's, or distributor's motor vehicles.

18 c. Attempting to repair a nonconformity, as defined in s. 218.0171 (1) (f), to a
 19 vehicle, if such repair is reasonably necessary to prevent the manufacturer, importer,
 20 or distributor from becoming subject to the requirements of s. 218.0171 (2) (b).

21 2. Subdivision 1. does not require a manufacturer, importer, or distributor to
 22 perform warranty service, or to authorize or permit warranty service to be
 23 performed, under a warranty given by another manufacturer, importer, or
 24 distributor or component manufacturer to a retail customer.

25 ~~SECTION 4. Initial applicability.~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

03-1468/P2dn

PJH:jld:rs

↑
stays

Rob,

I have hewn closely to the suggested language submitted by Mary Ann Gerard. However, in amended s. 218.0114 (9) (a) 2[✓], I added "or distributor's" to ensure that an agreement may not waive a dealer's or a distributor's right to a jury trial. Is this OK? Please review the entire draft and let me know if it needs any further changes or additional drafting. When the draft is in acceptable form, I will write an analysis and the draft can be introduced.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

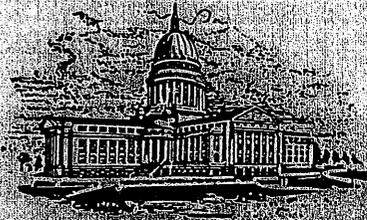
03-1468/P2dn
PJH:jld:rs

May 20, 2003

Rob,

I have hewn closely to the suggested language submitted by Mary Ann Gerard. However, in amended s. 218.0114 (9) (a) 2., I added "or distributor's" to ensure that an agreement may not waive a dealer's or a distributor's right to a jury trial. Is this OK? Please review the entire draft and let me know if it needs any further changes or additional drafting. When the draft is in acceptable form, I will write an analysis and the draft can be introduced.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.state.wi.us



WISCONSIN STATE REPRESENTATIVE
STEPHEN J. FREESE

PEGGY:

ENCLOSED ARE THE CHANGES TO
LRB-1468. I UNDERSTAND YOU SPOKE
WITH PAUL NORMAN ON CHANGES TO
LRB-1231. I ASSUME YOU REALIZE
THAT 1468/2 WAS THE WRONG DRAFT.
ANY QUESTIONS, GIVE ME A BZZ.

Rob

Also, on 1468
sect 6, make
bonding \$25,000, not \$50,000.



Wisconsin Automobile & Truck Dealers Association

150 E. Cilman Street—Suite A
Madison, WI 53703
(608) 251-5577 FAX: 251-4379

Mailing Address:
P.O. Box 5345, Madison, WI 53705-0345
www.watda.org

CARY D. WILL
PRES

FACSIMILE COVER SHEET

TO:	Bob Richard
COMPANY:	
FAX:	282 - 3651

FROM:	Mary Ann Gerrard
COMPANY:	Wisconsin Auto & Truck Dealers Association
PHONE:	608-251-5577 ext. 106
FAX:	
DATE:	5-28-03
PAGES INCLUDING COVER PAGE	5

IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE CALL 608-251-5577. THANK YOU.

Bob — please ask Peggy to make the changes on p. 2 then this and the franchise legislation should be 2 separate bills.

Thanks, Mary Ann

2003 - 2004 LEGISLATURE

LRB-1468/P1

PJH:jld:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Changes
5-27-03
discussion
with Paul
open

1 AN ACT *to amend* 218.0101 (6), 218.0101 (7), 218.0101 (8), 218.0114 (5) (a) and
2 218.0114 (20) (b); and *to create* 218.0101 (38) and 218.0114 (5) (c) of the
3 statutes; **relating to:** wholesale motor vehicle dealers.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 SECTION 1. 218.0101 (6) of the statutes is amended to read:
5 218.0101 (6) "Distributor" ~~or "wholesaler"~~ means a person, resident or
6 nonresident who in whole or part. sells or distributes new motor vehicles to motor
7 vehicle dealers, or who maintains distributor representatives.

8 SECTION 2. 218.0101 (7) of the statutes is amended to read:
9 218.0101 (7) "Distributor branch" means a branch office similarly maintained
10 by a distributor ~~or wholesaler~~ for the same purposes.

2003 - 2004 Legislature

- 2 -

LRB-1468/P1
PJH:jld:rs
SECTION 3

1 SECTION 3. 218.0101 (8) of the statutes is amended to read:

2 218.0101 (8) "Distributor representative" means a representative similarly
3 employed by a distributor, ~~or distributor branch or wholesaler.~~

4 SECTION 4. 218.0101 (38) of the statutes is created to read:

5 218.0101 (38) (a) "Wholesaler" or "wholesale dealer" means a person, other
6 than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who
7 does any of the following:

- 8 1. Sells more than 5 ^{used} motor vehicles in any 12-month period to ^{one or more} motor vehicle
9 dealer, ⁵ motor vehicle auction dealer, ⁵ or salvage dealer. ⁵
- 10 2. Except as provided in par. (b), purchases used motor vehicles from a motor
11 vehicle dealer or at a motor vehicle auction.
- 12 3. Except as provided in par. (b), purchases used motor vehicles on behalf of a
13 motor vehicle dealer.

14 (b) A person is not a wholesaler or a wholesale dealer if the person is employed
15 by and receives compensation from only one motor vehicle dealer for services relating
16 to the sale or purchase of motor vehicles and the person conducts all financial
17 transactions involving the sale or purchase of motor vehicles in the name of the motor
18 vehicle dealer that employs him or her, under the supervision of the motor vehicle
19 dealer that employs him or her, and using the motor vehicle dealer's funds or
20 financial accounts.

21 SECTION 5. 218.0114 (5) (a) of the statutes is amended to read:

22 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
23 dealer license shall provide and maintain in force a bond or irrevocable letter of credit
24 of not less than ~~\$25,000~~ \$50,000 or, if the dealer or applicant sells or proposes to sell
25 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of

2003 - 2004 Legislature

- 3 -

LRB-1468/P1
FJH:jld:rs
SECTION 5

1 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
2 name of the department of transportation for the benefit of any person who sustains
3 a loss because of an act of a motor vehicle dealer that constitutes grounds for the
4 suspension or revocation of a license under ss. 218.0101 to 218.0163.

5 SECTION 6. 218.0114 (5) (c) of the statutes is created to read:

6 218.0114 (5) (c) A wholesaler or a wholesale dealer or an applicant for a
7 wholesaler or wholesale dealer license shall provide and maintain in force a bond or
8 irrevocable letter of credit of not less than \$50,000. The bond or letter of credit shall
9 be executed in the name of the department of transportation for the benefit of any
10 person who sustains a loss because of an act or omission by the wholesaler or
11 wholesale dealer.

12 SECTION 7. 218.0114 (20) (b) of the statutes is amended to read:

13 218.0114 (20) (b) If the licensor has reasonable cause to doubt the financial
14 responsibility of the applicant or licensee or the compliance by the applicant or
15 licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or
16 licensee to furnish and maintain ~~a~~ an additional bond in the form, amount and with
17 the sureties it approves, but not less than \$5,000, nor more than \$100,000,
18 conditioned upon the applicant or licensee complying with the statutes applicable to
19 the licensee and as indemnity for any loss sustained by any person by reason of any
20 acts of the licensee constituting grounds for suspension or revocation of the license
21 under ss. 218.0101 to 218.0163. The bonds shall be executed in the name of the
22 department of transportation for the benefit of any aggrieved ~~parties,~~ person who
23 sustains a loss because of an act of the licensee that constitutes grounds for the
24 suspension or revocation of his or her license under ss. 218.0101 to 218.0163, except
25 that the aggregate liability of the surety to all aggrieved ~~parties~~ persons shall, in no

2003 - 2004 Legislature

- 4 -

LRB-1468/P1
PJHjld:rs
SECTION 7

1 event, exceed the amount of the bond. The bonding requirements in this paragraph
2 shall not apply to manufacturers, factory branches, and their agents and is in
3 addition to the bond or letter of credit required of a motor vehicle dealer under sub.
4 (5) (a).

5

(END)

PEGGY:

CAN YOU PLEASE
MAKE THE FOLLOWING
CHANGES TO LRB-
1468?

Thank You
Ross

FACSIMILE COV

TO:	Rob
COMPANY:	
FAX:	282 3651

FROM:	Chris Snyder
COMPANY:	WATDA
PHONE:	608-251-5577
FAX:	608-251-4379
DATE:	6/9/03
PAGES INCLUDING COVER PAGE:	6

IF YOU HAVE RECEIVED THIS FAX IN ERROR, PLEASE CALL
608-251-5577. THANK YOU.

Here is the latest on LRB 1468/P3
WIS DOT, DMV wants some pretty substantial
modifications so MAG, suggested that we send
this whole piece in to Peggy for incorporation
for an LRB 1468/P4.

Thanks

Subject: Revised language bonding wholesalers, licensing buyers

Date: Fri, 6 Jun 2003 15:34:47 -0500

From: "Skaar, Cathy" <cathy.skaar@dot.state.wi.us>

To: "mgerrard@watda.org" <mgerrard@watda.org>, "csnyder@watda.org" <csnyder@watda.org>

CC: "Anderson, James" <james.anderson@dot.state.wi.us>, JimAnderson@centurytel.net, "Konopacki, Kevin" <kevin.konopacki@dot.state.wi.us>, "Passehl, Nancy" <nancy.passehl@dot.state.wi.us>, "Supple, Chuck" <chuck.supple@dot.state.wi.us>, "VanDeventer, Victoria" <victoria.vandeventer@dot.state.wi.us>

MaryAnn and Chris--attached are the language changes I suggested on the phone yesterday. (I apologize I was unable to edit the original .pdf, but had to recreate from scratch without the nice LRB formatting.)

Summary of changes I made to your proposed language:

- Created a definition of mv buyer, who may hold multiple licenses to buy for several dealers, but may bid for only one dealer at a time, using that dealer's funds. A buyer working for only one dealer would also need a buyer license.
- Made changes necessary to establish licensor authority, fees, etc., for the mv buyer license.
- Allowed for a fee of \$6 to transfer a mv buyer license, but did not change current language charging no fee for a salesperson license transfer (I think we'd like to charge for those some day, as well. No change now, however.)
- I expressly stated that a wholesaler may not do business in the state without a wholesale license.
- I made a violation of 218 the basis for a claim against a wholesaler's bond--as with a retail bond.
- I added the requirement that a mv buyer display a license credential at auction, surrender it when leaving employ.
- I cut your use of the synonyms "wholesaler" and "wholesale dealer," opting for "wholesaler" alone.
- I amended rules governing mv auction sales to expressly limit sales to authorized buyers including the new license mv buyer, and to make clear the requirement for mv buyers to bid for only one employer at a time.

<<wholesale bond and buyer license 6-6-03.doc>>

Question for you.....Can you clarify for me a point that would relate to our Trans 140 changes. Are you intending to allow all dealer vs. dealer claims? That is, will wholesalers be able to file claims against retail dealer bonds--not just the other way around? Will retail dealers be able to file claims against other retail dealer bonds? What did you envision there?

Thanks.

Cathy

```

> *-----*
> Cathy Skaar
> Policy Analyst, Lemon Law Specialist, Dealer Section
> Wisconsin Department of Transportation
> 4802 Sheboygan Avenue, Rm 806
> P.O. Box 7909
> Madison, WI 53707-7909
> Office: (608) 267-3635
> Fax: (608) 267-0323
> Email: cathy.skaar@dot.state.wi.us
> *-----*
>
>

```

Bonding wholesalers and licensing buyers

Draft language revisions from WisDOT Dealer Section, June 6, 2003

Section 1. 218.0101 (6) of the statutes is amended to read:

218.101 (6) "Distributor" or "wholesaler" means a person, resident or nonresident who in whole or part, sells or distributes new motor vehicles to motor vehicle dealers, or who maintains distributor representatives.

Section 2. 218.0101 (7) of the statutes is amended to read:

218.0101 (7) "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

Section 3. 218.0101 (8) of the statutes is amended to read:

218.0101 (8) "Distributor representative" means a representative similarly employed by a distributor, or distributor branch or wholesaler.

Section 4. 218.0101 (22m) of the statutes is created to read:

218.0101 (22m) "Motor vehicle buyer" means a person who is employed by one or more motor vehicle dealer to bid on or purchase motor vehicles being held and offered for sale by a motor vehicle dealer or motor vehicle auction. Any motor vehicle buyer licensed under SS.218.0101 to 218.0163 who buys motor vehicles on behalf of more than one dealership must hold a separate motor vehicle buyer license for each employing dealership.

Section 5. 218.0101 (38) of the statutes is created to read:

218.0101(38)(a) "Wholesaler" means a person, other than a licensed motor vehicle dealer, licensed motor vehicle auction dealer, or licensed motor vehicle buyer who does any of the following:

1. Sells more than 5 used motor vehicles in any 12-month period to one or more motor vehicle dealers, motor vehicle auction dealers or salvage dealers.
2. Except as provided in par. (b), purchases used motor vehicles from a motor vehicle dealer or at a motor vehicle auction.
3. Except as provided in par. (b), purchases used motor vehicles on behalf of a motor vehicle dealer.

(b) A person is not a wholesaler if the person is a licensed motor vehicle buyer, and conducts all financial transactions involving the sale or purchase of motor vehicles in the name of and under the supervision of the motor vehicle dealer or dealers that employ him or her, and using the employing dealer's funds or financial accounts.

Section 6. 218.0111 of the statutes is amended to read:

218.0111 Authority of licensors. (1) The department of transportation shall issue the licenses provided for in S. 218.0114 (14) (a) to (f)-(g) and have supervision over the licensees in respect to all of the provisions of SS.218.0101 to 218.0163, except that the division of banking shall have jurisdiction and control over all of the following:

Section 7. 218.0114(1) of the statutes is amended to read:

218.0114 Licenses, how granted; agreements, filing. (1) No motor vehicle dealer, motor vehicle wholesaler, motor vehicle salesperson, motor vehicle buyer, or sales finance company may engage in business as a motor vehicle dealer, motor vehicle wholesaler, motor vehicle salesperson, motor vehicle buyer, or sales finance company in this state without a license therefore as provided in ss. 218.0101 to 218.0163. If any motor vehicle dealer acts as a motor vehicle salesperson, he or she shall secure a motor vehicle salesperson's license in addition to a motor vehicle dealer license. Every motor vehicle dealer shall be responsible for the licensing of every motor vehicle salesperson or motor vehicle buyer in his or her employ. Any person violating this subsection may be fined not less than \$500 nor more than \$5,000.

Section 8. 218.0114(5) (a) of the statutes is amended to read:

218.0114(5) (a) A motor vehicle dealer or an applicant for a motor vehicle dealer license shall provide and maintain in force a bond or irrevocable letter of credit of not less than ~~\$25,000~~ \$50,000 or, if the dealer or applicant sells or proposes to sell motorcycles and not other types of motor vehicles, a bond or irrevocable letter of credit of not less than \$5,000. The bond or letter of credit shall be executed in the name of the department of transportation for the benefit of any person who sustains a loss because of an act of a motor vehicle dealer that constitutes grounds for the suspension or revocation of a license under ss. 218.0101 to 218.0163.

Section 9. 218.0114 (5) (c) of the statutes is created to read:

218.0114(5)(c) A wholesaler or an applicant for a wholesaler license shall provide and maintain in force a bond or irrevocable letter of credit of not less than \$25,000. The bond or letter of credit shall be executed in the name of the department of transportation for the benefit of any person who sustains a loss because of an act of a motor vehicle wholesaler that constitutes grounds for suspension or revocation of a license under ss. 218.0101 to 218.0163.

Section 10. 218.0114(13)(b) of the statutes is amended to read:

218.0114(13)(b) The department of transportation shall promulgate rules establishing the license period for each type of license described in sub. (14) (a) to ~~(f)~~(g).

Section 11. 218.0114(13)(c) of the statutes is amended to read:

218.0114(13)(c) The department of transportation may promulgate rules establishing expiration dates for the various types of licenses described in sub. (14) (a) to ~~(f)~~(g).

Section 12. 218.0114(13)(d) of the statutes is amended to read:

218.0114 (13)(d) The division of banking shall promulgate rules establishing the license period for the license described in sub. (14) ~~(g)~~(h).

Section 13. 218.0114(13)(e) of the statutes is amended to read:

218.0114(13)(e) The division of banking may promulgate rules establishing expiration dates for licenses issued under sub. (14) ~~(g)~~(h).

Section 14. 218.0114 (14) (g) of the statutes is created to read:

218.0114 (14) (g) For motor vehicle buyers, \$6.

Section 15. 218.0114 (14) (g) of the statutes is renumbered 218.0114 (14) (h)

Section 16. 218.0114 (18) of the statutes is amended to read:

218.0114(18) Every salesperson, factory representative ~~or~~ distributor representative or motor vehicle buyer shall carry his or her license when engaged in business, and display the license upon request. The license shall name the licensee's employer. Upon leaving an employer, or in the case of a buyer, terminating a buying relationship with the dealership, the licensee shall immediately surrender the license to his or her employer, who shall mail the license to the licensor. If during the license period the licensee again is employed or acts as a salesperson or buyer, he or she shall make application for reissue of a salesperson's or buyer's license. There shall be no fee in connection with the subsequent ~~applications~~ application for a salesperson license. The fee for a subsequent application for a motor vehicle buyer license is \$6.

Section 17. 218.0114 (20) (b) of the statutes is amended to read:

218.0114(20)(b) If the licensor has reasonable cause to doubt the financial responsibility of the applicant or licensee or the compliance by the applicant or licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or licensee to furnish and maintain a an additional bond in the form, amount and with the sureties it approves, but not less than \$5,000, nor more than \$100,000, conditioned upon the applicant or licensee complying with the statutes applicable to the licensee and as indemnity for

that dealer's funds when purchasing the vehicle.

any loss sustained by any person by reason of any acts of the licensee constituting grounds for suspension or revocation of the license under ss. 218.0101 to 218.0163. the bonds shall be executed in the name of the department of transportation for the benefit of any aggrieved parties, person who sustains a loss because of an act or the licensee that constitutes grounds for the suspension or revocation of his or her license under ss. 218.0101 to 218.0163, except that the aggregate liability of the surety to all aggrieved parties persons shall, in no event, exceed the amount of the bond. The bonding requirements in this paragraph shall not apply to manufacturers, factory branches, and their agents and is in addition to the bond or letter of credit required of a motor vehicle dealer under sub. (5) (a).

Section 18. 218.33(2)(a) of the statutes is amended to read:

218.33(2) The following rules shall govern the conduct of motor vehicle auctions sales:

a) Sales of motor vehicles shall be confined to those offered by licensed motor vehicle dealers, ~~and shall be sold only to~~ Only licensed motor vehicle dealers, licensed motor vehicle wholesalers, and licensed motor vehicle buyers shall be allowed to bid on or purchase motor vehicles at motor vehicle auctions.

Section 19. 218.34 of the statutes is created to read:

218.34 Purchases from motor vehicle auctions (1) No person may purchase or submit a bid for the purchase of a motor vehicle from a motor vehicle auction unless the following conditions are satisfied:

(a) The person holds a valid motor vehicle dealer, motor vehicle wholesaler or motor vehicle buyer license.

(c) The person displays his or her valid motor vehicle dealer, motor vehicle wholesaler or motor vehicle buyer license to the motor vehicle auction and includes the license number on each sheet of any bid submitted to a motor vehicle auction for the purchase of a motor vehicle or on each sheet of any other document evidencing the purchase of a motor vehicle from a motor vehicle auction.

2) No motor vehicle auction may accept a bid for the purchase of a motor vehicle or complete the sales transaction unless the person who submits the bid or offers to purchase a motor vehicle from the motor vehicle auction satisfies the conditions under sub. (1)(b) and the motor vehicle auction verifies that the motor vehicle dealer license, motor vehicle wholesaler license or motor vehicle buyer license number displayed on the person's license credential and included on each sheet of that person's bid or other document evidencing the purchase of a motor vehicle are identical.

(3) For each motor vehicle sold by a motor vehicle auction, the motor vehicle auction shall enter on the certificate of title, or on the form or in the automated format used to reassign the title, any information that the department requires to indicate that ownership of the vehicle was transferred by a motor vehicle auction.

Hurley, Peggy

From: Richard, Rob
Sent: Wednesday, May 28, 2003 4:32 PM
To: Hurley, Peggy
Cc: 'mgerrard@watda.org'
Subject: FW: Here's LRB-1231

Peggy:

Can you please make the changes Mary Ann is looking for? Thank you!

Rob

-----Original Message-----

From: Mary Ann Gerrard [mailto:mgerrard@watda.org]
Sent: Wednesday, May 28, 2003 4:26 PM
To: Richard, Rob
Subject: Re: Here's LRB-1231

Rob, Now the draft is missing the language on jury trials which peggy had included in the 1468/2 draft. Also missing is the material in 218.0121(3m) (b) 2. which was on the top of page 4 in 1468/2. The jury trial language is in 218.0114(9) (a) 2.. If those pieces could just be brought back into 1231/3 we would be fine. Please ask Peggy to put those pieces back in, Thanks, mary ann

----- Original Message -----

From: "Richard, Rob" <Rob.Richard@legis.state>
To: <mgerrard@watda.org>
Sent: Wednesday, May 28, 2003 4:05 PM
Subject: Here's LRB-1231

<<03-12313.pdf>>

Status?

1468

changes sent 1-6-03 from Mary Ann

- 218.0114(5)(a) : change from 25k to 50k

- 218.0114(20)(b) : see changes

- 218.0101(6)

- 218.0101(7)

- 218.0101(8)

- 218.0101(38)

218.0114(5)(c)

all this is
in
1468/P1

3-10-03 : Mary Ann says these changes
should replace earlier draft

- 218.0114(9)(a) 2.

- 218.0114(9)(a) 4.

- 218.0114(9)(d)

- 218.0114(10)(a)

- 218.0116(1)(v)

- 218.0116(1)(w)

- 218.0121(3m)(b) 2.

- 218.0163(1)(a)

what
1213 should be,
with
changes

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to amend* 218.0101 (6), 218.0101 (7), 218.0101 (8), 218.0114 (5) (a) and
2 218.0114 (20) (b); and *to create* 218.0101 (38) and 218.0114 (5) (c) of the
3 statutes; **relating to:** wholesale motor vehicle dealers.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 SECTION 1. 218.0101 (6) ✓ of the statutes is amended to read:
5 218.0101 (6) "Distributor" ~~or "wholesaler"~~ means a person, resident or
6 nonresident who in whole or part, sells or distributes new motor vehicles to motor
7 vehicle dealers, or who maintains distributor representatives.

8 SECTION 2. 218.0101 (7) ✓ of the statutes is amended to read:
9 218.0101 (7) "Distributor branch" means a branch office similarly maintained
10 by a distributor ~~or wholesaler~~ for the same purposes.

1 SECTION 3. [✓] 218.0101 (8) of the statutes is amended to read:

2 218.0101 (8) "Distributor representative" means a representative similarly
3 employed by a distributor, or distributor branch ~~or wholesaler~~.

4 SECTION 4. [✓] 218.0101 (38) of the statutes is created to read:

5 218.0101 (38) (a) "Wholesaler" or "wholesale dealer" means a person, other
6 than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who
7 does any of the following:

8 1. Sells more than ^{used} 5 motor vehicles in any 12-month period to ^{one or more} a motor vehicle
9 ~~dealer, motor vehicle auction dealer, or salvage dealer.~~ dealers ^{use 3 times}

10 2. Except as provided in par. (b), purchases used motor vehicles from a motor
11 vehicle dealer or at a motor vehicle auction.

12 3. Except as provided in par. (b), purchases used motor vehicles on behalf of a
13 motor vehicle dealer.

14 (b) A person is not a wholesaler or a wholesale dealer if the person is employed
15 by and receives compensation from only one motor vehicle dealer for services relating
16 to the sale or purchase of motor vehicles and the person conducts all financial
17 transactions involving the sale or purchase of motor vehicles in the name of the motor
18 vehicle dealer that employs him or her, under the supervision of the motor vehicle
19 dealer that employs him or her, and using the motor vehicle dealer's funds or
20 financial accounts.

21 SECTION 5. [✓] 218.0114 (5) (a) of the statutes is amended to read:

22 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
23 dealer license shall provide and maintain in force a bond or irrevocable letter of credit
24 of not less than ~~\$25,000~~ [✓] \$50,000 or, if the dealer or applicant sells or proposes to sell
25 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of

1 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
2 name of the department of transportation for the benefit of any person who sustains
3 a loss because of an act of a motor vehicle dealer that constitutes grounds for the
4 suspension or revocation of a license under ss. 218.0101 to 218.0163.

5 SECTION 6. ^X218.0114 (5) (c) of the statutes is created to read:

6 218.0114 (5) (c) A wholesaler or a wholesale dealer or an applicant for a
7 wholesaler or wholesale dealer license shall provide and maintain in force a bond or
8 irrevocable letter of credit of not less than ~~\$50,000~~. The bond or letter of credit shall
9 be executed in the name of the department of transportation for the benefit of any
10 person who sustains a loss because of an act or omission by the wholesaler or
11 wholesale dealer.

✓ \$25,000

12 SECTION 7. ^X218.0114 (20) (b) of the statutes is amended to read:

13 218.0114 (20) (b) If the licensor has reasonable cause to doubt the financial
14 responsibility of the applicant or licensee or the compliance by the applicant or
15 licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or
16 licensee to furnish and maintain ~~a~~ an additional bond in the form, amount and with
17 the sureties it approves, but not less than \$5,000, nor more than \$100,000,
18 conditioned upon the applicant or licensee complying with the statutes applicable to
19 the licensee and as indemnity for any loss sustained by any person by reason of any
20 acts of the licensee constituting grounds for suspension or revocation of the license
21 under ss. 218.0101 to 218.0163. The bonds shall be executed in the name of the
22 department of transportation for the benefit of any aggrieved ~~parties~~, person who
23 sustains a loss because of an act of the licensee that constitutes grounds for the
24 suspension or revocation of his or her license under ss. 218.0101 to 218.0163, except
25 that the aggregate liability of the surety to all aggrieved ~~parties~~ persons shall, in no

1 event, exceed the amount of the bond. The bonding requirements in this paragraph
2 shall not apply to manufacturers, factory branches, and their agents and is in
3 addition to the bond or letter of credit required of a motor vehicle dealer under sub.
4 (5) (a).

5

(END)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓

now

Rege. cat.

1 AN ACT *to amend* 218.0101 (6), 218.0101 (7), 218.0101 (8), 218.0114 (5) (a) and
 2 218.0114 (20) (b); and *to create* 218.0101 (38) and 218.0114 (5) (c) of the
 3 statutes; **relating to:** wholesale motor vehicle dealers.

Inset A

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 **SECTION 1.** 218.0101 (6) of the statutes is amended to read:
 5 218.0101 (6) "Distributor" ~~or "wholesaler"~~ means a person, resident or
 6 nonresident who in whole or part, sells or distributes new motor vehicles to motor
 7 vehicle dealers, or who maintains distributor representatives.

8 **SECTION 2.** 218.0101 (7) of the statutes is amended to read:
 9 218.0101 (7) "Distributor branch" means a branch office similarly maintained
 10 by a distributor ~~or wholesaler~~ for the same purposes.

1 **SECTION 3.** 218.0101 (8) of the statutes is amended to read:

2 218.0101 (8) “Distributor representative” means a representative similarly
3 employed by a distributor, or distributor branch ~~or wholesaler~~.

4 **SECTION 4.** 218.0101 (38) of the statutes is created to read:

5 218.0101 (38) (a) “Wholesaler” or “wholesale dealer” means a person, other
6 than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who
7 does any of the following:

8 1. Sells more than 5 used motor vehicles in any 12-month period to one or more
9 motor vehicle dealers, motor vehicle auction dealers, or salvage dealers.

10 2. Except as provided in par. (b), purchases used motor vehicles from a motor
11 vehicle dealer or at a motor vehicle auction.

12 3. Except as provided in par. (b), purchases used motor vehicles on behalf of a
13 motor vehicle dealer.

14 (b) A person is not a wholesaler or a wholesale dealer if the person is employed
15 by and receives compensation from only one motor vehicle dealer for services relating
16 to the sale or purchase of motor vehicles and the person conducts all financial
17 transactions involving the sale or purchase of motor vehicles in the name of the motor
18 vehicle dealer that employs him or her, under the supervision of the motor vehicle
19 dealer that employs him or her, and using the motor vehicle dealer’s funds or
20 financial accounts.

21 **SECTION 5.** 218.0114 (5) (a) of the statutes is amended to read:

22 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
23 dealer license shall provide and maintain in force a bond or irrevocable letter of credit
24 of not less than ~~\$25,000~~ \$50,000 or, if the dealer or applicant sells or proposes to sell
25 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of

1 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
2 name of the department of transportation for the benefit of any person who sustains
3 a loss because of an act of a motor vehicle dealer that constitutes grounds for the
4 suspension or revocation of a license under ss. 218.0101 to 218.0163.

5 **SECTION 6.** 218.0114 (5) (c) of the statutes is created to read:

6 218.0114 (5) (c) A wholesaler or a wholesale dealer or an applicant for a
7 wholesaler or wholesale dealer license shall provide and maintain in force a bond or
8 irrevocable letter of credit of not less than \$25,000. The bond or letter of credit shall
9 be executed in the name of the department of transportation for the benefit of any
10 person who sustains a loss because of an act or omission by the wholesaler or
11 wholesale dealer.

12 **SECTION 7.** 218.0114 (20) (b) of the statutes is amended to read:

13 218.0114 (20) (b) If the licensor has reasonable cause to doubt the financial
14 responsibility of the applicant or licensee or the compliance by the applicant or
15 licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or
16 licensee to furnish and maintain ~~a~~ an additional bond in the form, amount and with
17 the sureties it approves, but not less than \$5,000, nor more than \$100,000,
18 conditioned upon the applicant or licensee complying with the statutes applicable to
19 the licensee and as indemnity for any loss sustained by any person by reason of any
20 acts of the licensee constituting grounds for suspension or revocation of the license
21 under ss. 218.0101 to 218.0163. The bonds shall be executed in the name of the
22 department of transportation for the benefit of any aggrieved parties, person who
23 sustains a loss because of an act of the licensee that constitutes grounds for the
24 suspension or revocation of his or her license under ss. 218.0101 to 218.0163, except
25 that the aggregate liability of the surety to all aggrieved parties persons shall, in no

1 event, exceed the amount of the bond. The bonding requirements in this paragraph
2 shall not apply to manufacturers, factory branches, and their agents and is in
3 addition to the bond or letter of credit required of a motor vehicle dealer under sub.
4 (5) (a).

5

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1468/P3ins
PJH:jld:rs

Insert A

Current law defines a motor vehicle wholesaler as a person who sells or distributes motor vehicles to a motor vehicle dealer, or who maintains motor vehicle distributor representatives.

Under this bill, a motor vehicle wholesaler is a person who is not a licensed motor vehicle dealer or a licensed motor vehicle auction dealer and who does one of the following: 1. Sells more than ^{five} used motor vehicles in any 12 month period to a dealer, auction dealer, or salvage dealer. 2. Purchases used motor vehicles from a motor vehicle dealer or at a motor vehicle auction. 3. Purchases used motor vehicles on behalf of a motor vehicle dealer. However, under the bill, a person is not a wholesaler if he or she receives compensation from, purchases vehicles on behalf of, and uses the financial funds of, only one motor vehicle dealer.

Current law requires a motor vehicle dealer, or an applicant for a motor vehicle dealer license, to maintain in force a bond or irrevocable letter of credit of at least \$25,000. If the dealer commits an act that would constitute grounds for the revocation or suspension of his ^{or her} dealer license and the act results in a loss to another person, the Department of Transportation (DOT) may use the bond or letter of credit for the benefit the person who sustained the loss.

This bill increases the amount of the bond or irrevocable letter of credit for motor vehicle dealers to not less than \$50,000 ^{it also} and requires a motor vehicle wholesaler to maintain a bond or irrevocable letter of credit of not less than \$25,000, to be held by DOT for the benefit of any person who sustains a loss because of an act or omission by a wholesaler.

Basford, Sarah

From: Richard, Rob
Sent: Friday, August 15, 2003 3:37 PM
To: Basford, Sarah

Sarah:

I wasn't sure who to contact with this request. I don't have the ability to make this request electronically by clicking the button. Please send me the Assembly jackets for LRB-1231/4 and LRB-1468/3. Thank you!

Rob Richard, Legislative Aide
Office of Rep. Steve Freese