

2003 SENATE BILL 234

August 27, 2003 – Introduced by Senators LEIBHAM, KANAVAS, S. FITZGERALD, BRESKE, PLALE, CARPENTER, BROWN, WELCH, RISSER and SCHULTZ, cosponsored by Representatives FREESE, GRONEMUS, M. LEHMAN, LEMAHIEU, GUNDERSON, HAHN, HINES, HUNDERTMARK, KESTELL, KRAWCZYK, MCCORMICK, MONTGOMERY, OTT, PETROWSKI, RHOADES, SHILLING, SUDER, VAN ROY and VRAKAS. Referred to Committee on Transportation and Information Infrastructure.

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

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

This bill defines a motor vehicle distributor as a person who sells or distributes only new vehicles to a motor vehicle dealer or who maintains distributor representatives. The bill defines a wholesaler as a person who is not a licensed motor vehicle dealer or a licensed motor vehicle auction dealer, who does any of the following:

1. Sells five or more used motor vehicles in a 12-month period to one or more motor vehicle dealers, motor vehicle auction dealers, or salvage dealers.

2. Purchases used motor vehicles from a motor vehicle dealer or at a motor vehicle auction, unless the person is employed by only one motor vehicle dealer and conducts all financial transactions involving the sale or purchase of motor vehicles in the name of the dealer, using the dealer's funds or financial accounts.

3. Purchases used motor vehicles on behalf of a motor vehicle dealer, unless the person is employed by only one motor vehicle dealer and conducts all financial transactions involving the sale or purchase of motor vehicles in the name of the dealer, using the dealer's funds or financial accounts.

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Current law requires motor vehicle dealers or an applicant for a motor vehicle dealer license, except those who sell motorcycles exclusively, to maintain a bond or irrevocable letter of credit of not less than \$25,000. This bill increases that amount to \$50,000 and requires wholesalers to maintain a bond or irrevocable letter of credit of not less than \$25,000.

Current law allows a licensor to request that a motor vehicle dealer or applicant maintain a bond of not less than \$5,000 and not more than \$100,000 conditioned upon the dealer or applicant complying with state law and as indemnity for any loss sustained by any person because of an act by the dealer or applicant that constitutes grounds for suspension or revocation of the dealer's license. This bill clarifies that the licensor may request the dealer or applicant to maintain the bond in addition to the bond already required and that the bond may be executed for the benefit of any person who sustains a loss because of an act of the dealer that constitutes suspension or revocation of his or her license.

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

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

2 218.0101 **(6)** “Distributor” ~~or “wholesaler”~~ means a person, resident or
3 nonresident who in whole or part, sells or distributes new motor vehicles to motor
4 vehicle dealers, or who maintains distributor representatives.

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

6 218.0101 **(7)** “Distributor branch” means a branch office similarly maintained
7 by a distributor ~~or wholesaler~~ for the same purposes.

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

9 218.0101 **(8)** “Distributor representative” means a representative similarly
10 employed by a distributor, or distributor branch ~~or wholesaler~~.

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

12 218.0101 **(38)** (a) “Wholesaler” or “wholesale dealer” means a person, other
13 than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who
14 does any of the following:

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

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

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

7 (b) A person is not a wholesaler or a wholesale dealer if the person is employed
8 by and receives compensation from only one motor vehicle dealer for services relating
9 to the sale or purchase of motor vehicles and the person conducts all financial
10 transactions involving the sale or purchase of motor vehicles in the name of the motor
11 vehicle dealer that employs him or her, under the supervision of the motor vehicle
12 dealer that employs him or her, and using the motor vehicle dealer's funds or
13 financial accounts.

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

15 218.0114 (5) (a) A motor vehicle dealer or an applicant for a motor vehicle
16 dealer license shall provide and maintain in force a bond or irrevocable letter of credit
17 of not less than ~~\$25,000~~ \$50,000 or, if the dealer or applicant sells or proposes to sell
18 motorcycles and not other types of motor vehicles, a bond or irrevocable letter of
19 credit of not less than \$5,000. The bond or letter of credit shall be executed in the
20 name of the department of transportation for the benefit of any person who sustains
21 a loss because of an act of a motor vehicle dealer that constitutes grounds for the
22 suspension or revocation of a license under ss. 218.0101 to 218.0163.

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

24 218.0114 (5) (c) A wholesaler or a wholesale dealer or an applicant for a
25 wholesaler or wholesale dealer license shall provide and maintain in force a bond or

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1 irrevocable letter of credit of not less than \$25,000. The bond or letter of credit shall
2 be executed in the name of the department of transportation for the benefit of any
3 person who sustains a loss because of an act or omission by the wholesaler or
4 wholesale dealer.

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

6 218.0114 **(20)** (b) If the licensor has reasonable cause to doubt the financial
7 responsibility of the applicant or licensee or the compliance by the applicant or
8 licensee with ss. 218.0101 to 218.0163, the licensor may require the applicant or
9 licensee to furnish and maintain ~~a-~~ an additional bond in the form, amount and with
10 the sureties it approves, but not less than \$5,000, nor more than \$100,000,
11 conditioned upon the applicant or licensee complying with the statutes applicable to
12 the licensee and as indemnity for any loss sustained by any person by reason of any
13 acts of the licensee constituting grounds for suspension or revocation of the license
14 under ss. 218.0101 to 218.0163. The bonds shall be executed in the name of the
15 department of transportation for the benefit of any aggrieved ~~parties,~~ person who
16 sustains a loss because of an act of the licensee that constitutes grounds for the
17 suspension or revocation of his or her license under ss. 218.0101 to 218.0163, except
18 that the aggregate liability of the surety to all aggrieved ~~parties~~ persons shall, in no
19 event, exceed the amount of the bond. The bonding requirements in this paragraph
20 shall not apply to manufacturers, factory branches, and their agents and is in
21 addition to the bond or letter of credit required of a motor vehicle dealer under sub.
22 (5) (a).

23 **(END)**