

SENATE BILL 50

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R7

2002 Regular Session
2lr0213

(PRE-FILED)

By: **Senator Dorman**

Requested: July 2, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Dealer - Definition**

3 FOR the purpose of altering a certain definition of "dealer" as it relates to a dealer in
4 vehicles by reducing the number of certain vehicles that a person may offer to
5 sell within a certain period before being considered a dealer under the
6 definition; establishing a certain presumption; and generally relating to vehicle
7 dealers.

8 BY repealing and reenacting, with amendments,
9 Article - Transportation
10 Section 15-101(b)
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2001 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Transportation
15 Section 15-302
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2001 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Transportation**

21 15-101.

22 (b) (1) "Dealer" means, except as provided in paragraph (3) of this
23 subsection, a dealer in vehicles of a type required to be registered under Title 13 of
24 this article.

25 (2) (I) "Dealer" includes:

1 [(i)] 1. A person who is in the business of buying, selling, or
2 exchanging vehicles, including a person who during any 12-month period offers to
3 sell [five] THREE or more of these vehicles, the ownership of which was acquired for
4 resale purposes; and

5 [(ii)] 2. For the purposes of §§ 15-301 through 15-315, inclusive,
6 of this title, any person who sells vehicles, whether or not that person acquired the
7 vehicles for personal or business use, if the vehicles are displayed at a fixed location
8 used principally for the purpose of selling vehicles on a regular basis.

9 (II) 1. FOR THE PURPOSES OF SUBPARAGRAPH (I)1 OF THIS
10 PARAGRAPH, A PERSON WHO OFFERS TO SELL THREE OR MORE VEHICLES DURING
11 ANY 12-MONTH PERIOD IS PRESUMED TO HAVE ACQUIRED THE VEHICLES FOR
12 RESALE PURPOSES.

13 2. THE VEHICLE OWNER HAS THE BURDEN OF REBUTTING
14 THE PRESUMPTION ESTABLISHED UNDER SUB-SUBPARAGRAPH 1 OF THIS
15 SUBPARAGRAPH BY A PREPONDERANCE OF THE EVIDENCE.

16 (3) "Dealer" does not include:

17 (i) A public official who sells or disposes of vehicles in the
18 performance of his official duties;

19 (ii) An insurance company, finance company, bank, or other lending
20 institution licensed or otherwise authorized to do business in this State that, to save
21 it from loss, sells or disposes of vehicles under a contractual right and in the regular
22 course of its business;

23 (iii) A licensed auctioneer acting on behalf of a seller, secured party
24 or owner and where title does not pass to the auctioneer and the auction is not for the
25 purpose of avoiding the provisions of this title;

26 (iv) A receiver, trustee, personal representative, or other person
27 appointed by or acting under the authority of any court;

28 (v) Either a manufacturer or distributor who sells or distributes
29 vehicles to licensed dealers or a person employed by a manufacturer or distributor to
30 promote the sale of the vehicles of the manufacturer or distributor, if that
31 manufacturer, distributor, or person does not sell vehicles to retail buyers;

32 (vi) A person who sells or disposes of vehicles acquired and used for
33 personal or business use and not for the purpose of avoiding the provisions of this
34 title, if that person is not engaged in buying, selling, or exchanging vehicles as a
35 business;

36 (vii) An automotive dismantler and recycler who during the normal
37 course of business acquires a salvage vehicle and transfers the vehicle on a salvage
38 certificate. However, if the automotive dismantler and recycler rebuilds and sells
39 more than 5 vehicles during a 12-month period to a person other than another

1 automotive dismantler and recycler or licensed dealer, the automotive dismantler and
2 recycler must be licensed as a dealer under § 15-302 of this subtitle;

3 (viii) A person engaged in the leasing of motor vehicles under leases
4 not intended as security; or

5 (ix) A religious, charitable, or volunteer organization exempt from
6 taxation under § 501(c) of the Internal Revenue Code, the Department of Human
7 Resources, or a local department of social services transferring a vehicle under §
8 13-810 of this article.

9 15-302.

10 (a) A person may not conduct the business of a dealer unless the person is
11 licensed by the Administration under this subtitle.

12 (b) Any person who has been refused a dealer's license in this State or whose
13 dealer's license is revoked or suspended may not conduct the business of a dealer
14 under any license, permit, or registration certificate issued by any other jurisdiction.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2002.