DEALER LICENSING & SALESPERSON

HANDBOOK

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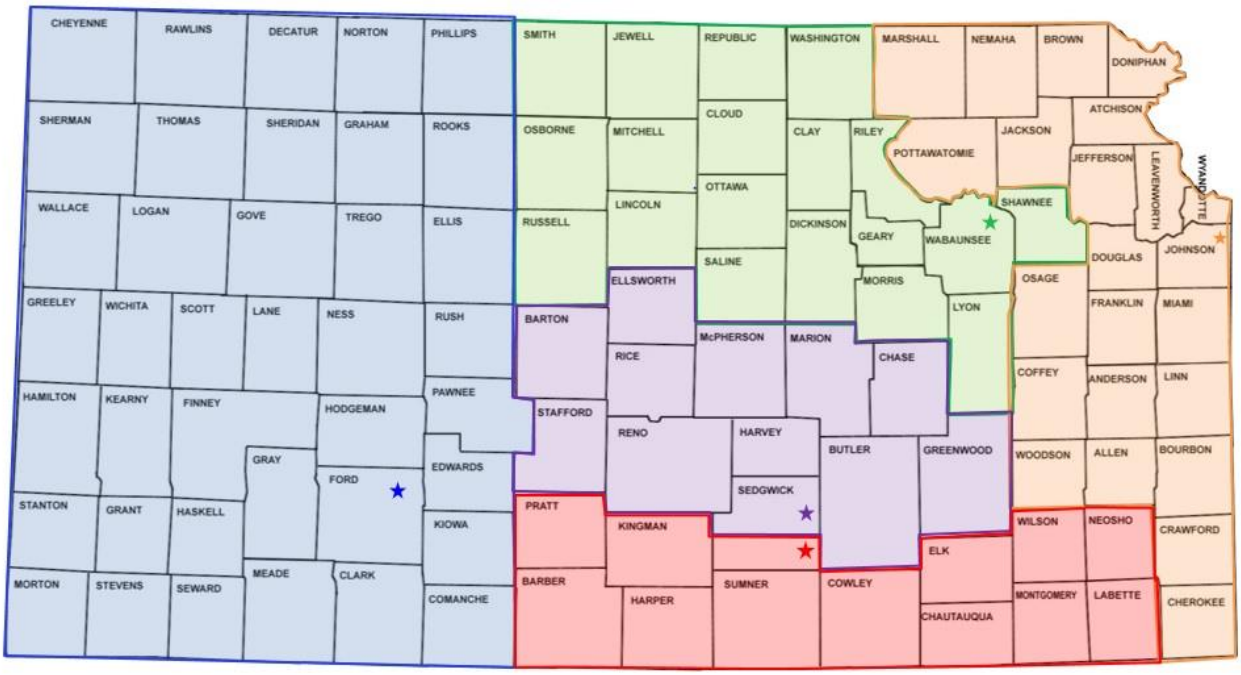

Rev 05/2017

INTRODUCTION

Doing business as a vehicle, manufactured home dealer or salesperson in the state of Kansas requires a license issued by Kansas Department of Revenue, Dealer Licensing.

A vehicle dealer constitutes a person who purchases a vehicle with the intent to sell for a profit, or sells 5 or more vehicles within a calendar year.

In this Dealer Handbook you will find complete instructions and licensing requirements for Kansas Vehicle and Manufactured Home Dealers and Salespersons, as well as forms necessary for your business operations.

We hope this will be a valuable source of information for those licensed to manufacture, distribute, or sell vehicles or manufactured homes in the state of Kansas, as well as for those involved in the enforcement of these regulations.

NEW TO DEALER LICENSING?

Kansas Dealers need to have computer access. Most dealer transaction will need to be completed through the Dealer Portal. To gain access to the dealer portal you will need to register on the Kansas Customer Service Center. To get started, log on to www.ksrevenue.org and click on "**Register Now**" and follow the guided instructions.

Once your application has been received and all requirements have been met you will be invited to come to a class where you will receive your dealer license and will cover critical working knowledge of expectations, laws and regulations on operating as a vehicle dealer in the state of Kansas.

Lisa Kaspar, Director
Division of Vehicles

FIELD REPRESENTATIVE TERRITORIAL LISTING

Rod Allen 785-640-8124		Mike Fracul 785-640-8126		Karen Smarsh 316-258-3479		April Bishop 785-230-5566		Francisco Aguilar 785-230-7676	
Clay	(CY)	Allen	(AL)	Barton	(BT)	Barber	(BA)	Cheyenne	(CN)
Cloud	(CD)	Anderson	(AN)	Butler	(BU)	Chautauqua	(BU)	Clark	(CA)
Dickinson	(DK)	Atchison	(AT)	Chase	(CS)	Cowley	(CL)	Comanche	(CM)
Geary	(GE)	Bourbon	(BB)	Ellsworth	(EW)	Elk	(EK)	Decatur	(DC)
Jewell	(JW)	Brown	(BR)	Greenwood	(GW)	Harper	(HP)	Edwards	(ED)
Lincoln	(LC)	Cherokee	(CK)	Harvey	(HV)	Kingman	(KM)	Ellis	(EL)
Lyon	(LY)	Coffey	(CF)	Marion	(MN)	Labette	(LB)	Finney	(FI)
Mitchell	(MC)	Crawford	(CR)	McPherson	(MP)	Montgomery	(MG)	Ford	(FO)
Morris	(MR)	Doniphan	(DP)	Reno	(RN)	Neosho	(NO)	Gove	(GO)
Osborne	(OB)	Douglas	(DG)	Rice	(RC)	Pratt	(PR)	Graham	(GH)
Ottawa	(OT)	Franklin	(FR)	Sedgwick (N)	(SG)	Sedgwick (S)	(SG)	Grant	(GT)
Republic	(RP)	Jackson	(JA)	Stafford	(SF)	Sumner	(SU)	Gray	(GY)
Riley	(RL)	Jefferson	(JF)			Wilson	(WL)	Greeley	(GL)
Russell	(RS)	Johnson	(JO)					Hamilton	(HM)
Saline	(SA)	Leavenworth	(LV)					Haskell	(HS)
Shawnee	(SN)	Linn	(LN)					Hodgeman	(HG)
Smith	(SM)	Marshall	(MS)					Kearny	(KE)
Wabaunsee	(WB)	Miami	(MI)					Kiowa	(KW)
Washington	(WS)	Nemaha	(NM)					Lane	(LE)
		Osage	(OS)					Logan	(LG)
		Pottawatomie	(PT)					Meade	(ME)
		Woodson	(WO)					Morton	(MT)
		Wyandotte	(WY)					Ness	(NS)
								Norton	(NT)
								Pawnee	(PN)
								Phillips	(PL)
								Rawlins	(RA)
								Rooks	(RO)
								Rush	(RH)
								Scott	(SC)
								Seward	(SW)
								Sheridan	(SD)
								Sherman	(SH)
								Stanton	(ST)
								Stevens	(SV)
								Thomas	(TH)
								Trego	(TR)
								Wallace	(WA)
								Wichita	(WH)

Kansas Law States

Declaration of public policy: It is hereby declared to be the public policy of this state to provide fair and impartial regulation of those persons engaged in manufacturing, distributing or selling of vehicles or manufactured homes. The provisions of this act which are applicable to such activities shall be administered in such a manner and will continue to promote fair dealing and honesty in the vehicle industry or the mobile home industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or advantage. It is further declared to be the policy of this state to protect the public interest in the purchase and trade of vehicles and manufactured homes, so as to insure protection against irresponsible vendors and dishonest or fraudulent sales practices.

Edited by: Dealer Licensing
Division of Vehicles
Kansas Department of Revenue

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DEALER LICENSING RESPONSIBILITIES

Selling motor vehicles without a license could result in fines or penalties. It is unlawful and constituted as a misdemeanor, punishable by a fine not to exceed $2,500.00 for any person to do business as a motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer, motor vehicle converter, auction motor vehicle dealer, or salesperson without a license issued by the Director. The isolated or occasional sale of a vehicle by a person who owned such vehicle shall not constitute the doing of business as a vehicle dealer.

License Type	Cost	License Type	Cost
New/Used Vehicle Dealer	$75	Distributor	$75
Used Vehicle	$75	Distributor Branch	$75
Salvage Vehicle Dealer	$75	Factory Branch	$75
Wholesale Vehicle Dealer	$75	Lending Agency	$50
Auction Motor Vehicle Dealer	$75	Used RV Broker	$75
Insurance Company	$75	Vehicle Crusher	$75
Salvage Pool	$75	Vehicle Recycler	$75
1st/2nd Stage Manufacturer	$225	Rebuilder	$75
1st/2nd Stage Converter	$50	Scrap Metal Recycler	$75
MANUFACTURED HOME DEALER LICENSE TYPES			
New/Used Manufactured Home Dealer			$50
Used Manufactured Home Dealer			$50
Manufactured Home Broker			$50
Manufactured Home Distributor			$50
Manufactured Home Manufacturer			$200

In October 1995, the Dealer Licensing computerized the licensing process and implemented a Filenet Imaging system that stores imaged documents by folder ID. In April 2007 the Dealer Licensing implemented a web-based application. This system automatically issues a folder ID when the original application is received and entered into the system. When the license number is ready to be issued, a dealer number is given corresponding with the range of numbers that identifies the type of license issued. The dealer number can change depending on the license type.

LICENSE REQUIREMENTS

All statutory and business requirements must be met prior to the issuance of a license. There are two field investigators that make routine inspections to ensure requirements are maintained. During these inspections, they also provide training and answer any questions the dealer may have. If requirements are not met the field investigators may issue a civil penalty. The dealer may elect to contest the penalty and request a hearing. Hearings may result in the suspension, revocation, and/or a civil penalty.

Location requirements:

- Lot and location either owned or leased separate from your residence
- Sufficient office facilities to conduct business
- A place to receive mail at your licensed location
- Have an operable phone listed in the business name
- Zoning Certification by either the County or City Zoning Office for the business

location must be obtained; the zoning authorization must be license type specific to the location
- Insurance listed in the business name
- Personal Property Tax Certification must be signed by the County Treasurer validating that all personal property taxes have been satisfied

New vehicle/new mfg. home dealers require a franchise agreement for each additional or supplemental location. *K.S.A. 8-2404*

Salvage dealers must have salvage storage certificate which is issued through KDOT. *K.S.A. 8-2404*

Title Service Agents are required to carry a $25,000 Surety Bond form. *K.S.A. 8-2603*

The following license types are required to carry a $30,000 Surety Bond form D-20. *K.S.A. 82404*

Auction Vehicle	Salvage Pool
Converter	Scrap Metal Recycler
New/Used Vehicle Dealer	Trailer Broker
Rebuilder	Used Vehicle Dealer
RV Broker	Vehicle Recycler
Salvage Dealer	Wholesale

Franchise Certification form D-100 or KDOT form D-35 may be required. *K.S.A. 8-2404*

Below is a list of all required documents requested when submitting an Application:

- Copy of Current Certificate of Insurance (Declarations page or Acord Form)
  Your insurance policy must stay in effect, with no lapse in coverage or your license may be revoked pending a Dealer License Hearing
- Insurance must be written in the Business Name and Address of primary dealer location
- Original Bond form with Power of Attorney attached
  Any time you make a change; such as your business name, business address, entity or owners, you must notify your bond company. Your bond must stay in effect, with no lapse in coverage or your license may be revoked pending a Dealer License Hearing. Surety Bonds must be written in the Business Name and Address of Dealer Location.
- Tax Clearance Certificate. All dealers are required to provide a Certificate of Tax Clearance. This can be obtained by going to http://www.ksrevenue.org/taxclearance.html
- Copy of Sales Tax Certificate
- Articles of Incorporation from Secretary of State (if corporation/LLC)
- Three Credit References (if sole prop/partnership)
- Enclose pictures of your established place of business including store front and sign.
- License/Plate Fees
- *If applying for New Dealer License*, a Franchise Certification (D-100) and copy of the Franchise Sales Agreement between the manufacturer/distributor and new vehicle dealer are required.

- *If applying for New Dealer License* a Relevant Market Area request sent to Director of Vehicles. *K.S.A. 8-2430*
- *If applying for a Salvage Dealer License*, a KDOT Certificate of Compliance (D-35) is required with your application

Please make a copy of the application and all supporting documents for your records, prior to mailing.

60 DAY TEMPORARY PERMITS

60 Day Temporary Permits are issued on the Dealer Portal. Only 1 permit should be issued to an individual per vehicle. A duplicate permit may only be issued when the original is destroyed due to weather conditions. Lost or stolen permits require a police report before another copy may be issued. If lost/stolen or an error has been made, a second permit can be issued as long as the expiration date remains the same. You would need to enter the original purchase date to allot the customer the proper amount of time left remaining on the temporary permit. Each permit is $3.00 per permit. You will have to have access to the Dealer Portal to issue the temporary permit. If for any reason you cannot issue the temporary permit with the proper documentation the customer can go to their local County Treasurer's Office to obtain a temporary permit. Dealers cannot sell or provide 60 day permits to any other dealer.

In the event the operational system to the Dealer Portal becomes disabled dealers will be able to issue a 72-hour Temporary Permit to their customer at no charge. When the system is enabled dealers will be able to provide a 60-day Temporary Permit for the customer based upon the original date of purchase.

72 HOUR AUCTION PERMITS

A Kansas-based auctioneer may purchase 72-hour transport permits that authorize the purchaser of a vehicle to operate such vehicle for 72 hours with the bill of sale. Only one permit may be used by the same purchaser for the same vehicle. 72-hour auction permits are $3 each; sold in quantities of 3.

BONDING

SURETY BOND

Some licenses require a $30,000.00 surety bond. The surety bond is similar to an insurance policy. If an individual sues a dealer and wins, a judgment can be filed with the Director of Vehicles office and if approved the bond company reimburses the individual up to $30,000.00. The bond is required at the time of application and maintained throughout the license. When a bond cancellation is received a compliance letter is sent to the dealer. *K.S.A. 8-2404(i)*

Requirements: Bond form D-20 completed by a bond company registered in Kansas. Bond must be approved by Kansas Department of Revenue. Power of Attorney must be dated on or before bond witness date & must accompany bond.

BOND RIDERS/ENDORSEMENTS

Many changes that take place in your dealership affect your bond. You should always contact your bond company anytime you make changes.

A rider is required when: Your firm name changes, same entity and address changes. *K.S.A. 8-2404(i)*

New bond required when: There is an entity change (individual to partnership, etc.). Transfer of Ownership (New owners must obtain their own bond). Major change takes place in business, such as name, address & adding owners all at once.

BOND CANCELLATION

If your bond is canceled, a new bond or reinstatement is needed rescinding the bond cancellation. The new bond effective date must be on or before the previous bonds cancellation date. *K.S.A. 8-2404(i)*

CERTIFICATE OF DEPOSIT

A Certificate of Deposit can be used in lieu of the $30,000.00 surety bond; however, we are required to hold the CD in our possession for 2 years after the license is terminated or until a bond is maintained for 2 years. Your CD will be deposited in the State Treasurer's office for safekeeping. *K.S.A. 8-2404(j)*

Requirements:

- Certificate of Deposit completed by your lending agency
- D-19 form must be completed by your lending institution and forwarded with the original CD

CONVERTER

First Stage Converter means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier specially constructed body units to result in motor vehicles, used as but not limited to, buses, wreckers, cement trucks and trash compactors. *K.S.A. 8-2401*

Second Stage Converter means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale. *K.S.A. 8-2401*

COUNTY CHANGE

If you are relocating your dealership to a different county: *K.S.A. 8-2404(g)*

Requirements:

- Original application completed in full; form D-17A
- Zoning and Tax Certification must be for new location/county
- *$25.00* fee required
- Rider is requested for the bond with new address listed

CREDENTIALS, CERTIFICATES, TAGS, ETC.

When a dealer number is issued, a license certificate, a letter of Authority for each plate ordered, a handbook, memos that have been sent since the handbook was revised, instructions and assistance with setting up the Dealer Portal & monthly sales report forms are delivered to the dealer by the field investigator. When a changes occur to the business such as name, entity or license type, a new certificate with the correct information will be delivered to the dealer; as well as new certificates for salesperson licenses. Any correspondence including annual license renewals will all be sent to the email provided to us on your application.

DEALER PLATES

Dealer plates are issued to dealers for demonstration purposes. Owners and their spouses can legally drive on dealer plates as long as the vehicle is in the dealership inventory for sale. Licensed salespersons that work 20 hours or more a week are also authorized to drive on dealer plates. Newly licensed dealers are eligible for 3 plates per plate type to begin. Their business may require more dealer plates and can be requested if sales warrant additional plates to be issued. Dealers must have 5 sales per plate type to maintain or increase their plate quantity. We will automatically decrease plates at renewal time if reported sales do not equal plate allowance. The first auto/motorcycle plate is $275.50; each additional plate is $25.50. Manufactured Home and Trailer plates are $25.50 each. *K.S.A. 8-136, K.S.A. 8-2406*

DISPLAY SHOW PERMIT

Only New Vehicle Dealers can apply for a Display Show Permit to display new vehicles at a location other than their primary location, such as a mall. There can be no sales from this location. A Display Show Location request can be made for 3 months ($15.00), 6 months ($30.00), and 12 months ($90.00). *K.S.A. 8-2435*

Requirements:

- Display Show application completed in full; form D-12b
- Application must be submitted no less than 10 working days prior to the show date (THIS WILL BE ENFORCED)
- Location must be zoned for the display of new vehicles

DRIVE-AWAY TRANSPORTER TAGS

These tags are to be used to transport vehicles from one location to another only. The plates cannot be used on vehicles owned by the driver/company. *K.S.A. 8-143*

Requirements:

- Application; D-14 completed listing owner name and the company to be responsible for tags
- Must have liability insurance
- Must explain what tags will be used for
- Drive-away plates are renewed annually in December each year

FULL PRIVILEGE DEALER PLATES

After issuance of the first dealer license plate, (K.S.A.8-2406) a full-privilege license plate may be issued to a licensed manufacturer or dealer of vehicles. There is a limit of 10 plates per dealer. The fee is $350.50 per plate. A full privilege plate may be transferred from one vehicle to another owned by dealer. *K.S.A. 8-2425*

The assignment is completed only to the following:

- A member of the immediate family
- An employee of the dealer or manufacturer
- A corporate officer

A full use plate may not be used:

- When providing wrecker or towing service
- On a rental or leased vehicle
- To permit vehicles to haul commodities in excess of two tons
- To Lending institutions

Requirements:

- Form D-4 completed with $350.50 per plate
- Renewed annually with license renewal
- Expired January 31st each year
- Decal is used to update tag expiration

GOING OUT OF BUSINESS

When a dealer decides to terminate their license they must surrender all credentials and inventory (license, dealer plate(s), ST-8's, title addendums) along with a signed letter of intent for closure to the Dealer Licensing or to their Field Investigator. The file is noted and the tags are destroyed. After such notice is filed with the Dealer Licensing, a field agent will inspect the location to ensure the business is no longer active. Fees are not prorated and will not be refunded. To liquidate their inventory the dealer may have a one-time auction within the licensing period. They must provide to the Director of Vehicles, 30-days in advance, a listing of all inventory which will be offered for sale in their liquidation auction. The dealer has 30 days after the date of closure to eliminate their vehicle inventory. All vehicles left in their possession must have the titles transferred out of their business name and registered in their personal name.

INSURANCE

Dealers are required to obtain and maintain a Certificate of Insurance. The Division of Vehicles requires the minimum set by the Insurance Commissioner's office. Currently, the minimum is $25,000.00 liability per person for bodily injury, $50,000.00 per occurrence, and $10,000.00 covering property damage. No dealer's license will be issued, maintained or renewed unless the applicant or holder of the license has a current approved insurance policy on file with the Division of Vehicles. *K.S.A. 8-2405*

INSURANCE CANCELLATION

In the event your insurance policy is canceled, you must contact your insurance agent and request that a new Certificate of Insurance is forwarded to the Division of Vehicles to verify coverage. If you have changed to a new insurance company, your new company must forward a certificate effective on or before the cancellation date of the previous policy. Upon the effective date of cancellation of any insurance policy required under this section the license to engage in business as a dealer will be void. *K.S.A. 8-2405*

KDOT

If you are licensed as a Salvage Vehicle Dealer; the Kansas Department of Transportation must certify that the location meets Beautification Laws of Kansas. *K.S.A. 8-2404(t)*
Requirements: D-35 completed and signed by KDOT

LOCATION CHANGE/LICENSE TYPE CHANGE

Requirements:

- Application completed; form D-12A
- Zoning for appropriate type of vehicles
- Approval must be obtained by the Dealer Licensing, then they will forward it to the Dealer Licensing Field Investigator for inspection and approval

Franchise Dealers:

- D-100 and franchise agreement is required for supplemental location for all line-makes.
- If you are a New/Used Vehicle Dealer a Relevant Market Area request sent to Director of Vehicles. *K.S.A. 8-2430*

Salvage Dealers:

- KDOT Salvage Compliance is required for all locations.

LOST PLATE

Should one of your dealer tags become lost or stolen, within 10 days you must:

- Contact your local police department, highway patrol or sheriff's office, report your lost or stolen tag and obtain a copy of the police report
- Write a letter on your dealership letterhead listing the lost or stolen tag, including the suffix letter. If you would like to request a replacement tag indicate this and send $3.00 per plate in addition to a copy of the police report to the Division of Vehicles, Dealer Licensing, Docking State Office Building, Topeka, Kansas 66626-0001
- A dealer who locates a tag that he previously reported lost or stolen, must return the tag(s) to Dealer Licensing with an explanation as to why the tag is being returned

Denial, suspension or revocation of license; notice and hearing; licensee responsibility for agents; appeals; prohibited acts. (a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds: (18) has failed to notify the division within 10 days of dealers plates that have been lost, stolen, mutilated or destroyed; K.S.A. 8-2410

MAJOR COMPONENT PART

Salvage vehicle dealers will file a quarterly report on a form prescribed and furnished by the division, listing all vehicles for which the major component part containing the vehicle identification number or engine number if manufactured prior to 1981, has been disposed of or sold. The certificate of title or transfer certificate for all vehicles listed must accompany the quarterly report. *K.S.A.8-2408(b)*

MANUFACTURERS/DISTRIBUTORS

Manufacturers and distributors are required to obtain and maintain a license to sell new vehicles and new manufactured homes to Kansas dealers for resale in this state. Regardless of their location, manufacturers/distributors pay an annual fee and send a Franchise Agreement (D-100) to the designated Kansas Dealer, which enables the dealer to sell their specific line make of vehicle, trailer, RV, motorcycle & manufactured home. *K.S.A. 8-2404(b)*

Requirements:

- Original application

- Must be licensed to supply Kansas New Vehicle Dealers with vehicles or manufactured homes
- License is renewed annually
- $225.00 fee for manufacturer
- $75.00 fee for distributor

MONTHLY SALES REPORTS

In-State Dealers, Lending Agencies, Auctions and In/Out of State Converters are required to file a monthly sales report listing all vehicles sold. Sales reports are all entered electronically on the Dealer portal.

License types in the D-1 column are required to submit a "New & Used Dealer Monthly Sales Report (D-1)"***** each month recording sales.

Salvage vehicle license holders are required to submit a "Salvage Sales Report (D-2)" every month as well as a "Salvage Dealer's Major Component Part Quarterly Report (D-2MCP)" four times a year.

Auction Vehicle Dealers must use the "Auction Monthly Sales Reports (D-3)".

*****Alternatively we will accept a copy of the 'Monthly Sales Report (Excel Version)' instead of the D-1.

D-1	**D-2**
Auction Vehicle Dealer New & Used Used Vehicle Lending Agencies Wholesale Used Mfg. Homes Mfg. Home Broker	Salvage Vehicle D-2MCP FORM Salvage Vehicle (this report must be sent in quarterly in addition to the D-2 Form

RECORD RETENTION

Monthly Sales Reports:	a minimum of four years
Renewals Copies of titles &	a minimum of four years
Corresponding paperwork:	a minimum of four years
Sales Tax forms:	a minimum of four years

All records and certificates of titles on all vehicles owned by dealers are subject to inspection and investigation by any employee of the Kansas Department of Revenue, Division of Vehicles or any member of law enforcement and should be made available during regular business hours.

REASSIGNMENT ADDENDUM

A Reassignment Title Addendum allows one additional reassignment addendum to any certificate of title and will allow a rider to be attached to Kansas Titles by out of state dealers.

RENEWALS

All licenses, with the exception of salesperson licenses, expire December 31st each year. Dealers should expect an email containing their renewal early November. Renewals are due **prior** to December 31st. It takes approximately 6 weeks to obtain plates from the tag

manufacturer. Any license not renewed by December 31st will be expired and must complete a complete original application accompanied with all required documents to become licensed. *Tax Clearance is required for Dealer Renewals; it is advisable not to wait to apply for a Tax Clearance until December 30th or 31st. It takes a minimum of 24hrs to receive a tax clearance and they are only processed through the Division of Taxation Monday through Friday. Tax Clearances applied for December 30 or 31 may not clear until January, where at that time the license will then be expired and no longer eligible to process a renewal through the Dealer Portal.

SALESPERSON LICENSES

Individuals selling vehicles for a dealer or manufacturer are required to obtain and maintain a Salesperson License. The salesperson applicant is required to take a test prior to being licensed. Salesperson licenses are renewed in June of each year.
K.S.A. 8-2404; K. S. A. 8-2433; K.S.A. 58-4207

Requirements:

- Application completed on Dealer Portal
- $25.00 Vehicle Salesperson fee
- $15.00 Manufactured Home Salesperson fee
- $50.00 Factory or Distributor Representative fee

ST-8 FORMS

Statement of Kansas State and Local Retail Sales Tax paid to the Dealer. (sales tax receipt) If the vehicle is sold to an out of state purchaser and will be registered out of state Dealers should use the ST-8b Exemption Form (there are specific requirements regarding trailer sales to out of state purchasers, please follow Sales Tax guidelines); the sale should still be recorded on the monthly Dealer Sales Report. All ST-8 forms are provided by Dealer Licensing.

SUPPLEMENTAL LOCATION

Vehicle dealers may obtain a supplemental location within the same county for a fee, as long as their local zoning official approves the location. There is a $35.00 fee for each supplemental location. The supplemental location is renewed when the dealer license is renewed each year. New vehicle dealers can have a supplemental location in a county other than their licensed primary location to sell new vehicles only as long as the location is within their Relevant Market Area. *K.S.A.8-2404(f); K.S.A.8-2430*

Requirements-Salvage Dealers:

D-35 KDOT Salvage Compliance is required for all supplemental locations.

Requirements:

- Application completed; form D-12a
- Zoning for appropriate type of vehicle sales
- Approval must be obtained by the Dealer Licensing, then they will forward it to the Dealer

Licensing Field Investigator for inspection and approval

*New/Used dealer supplemental locations must to go through the Relevant Market Area process prior to approval. No Supplemental locations can be operational until the approval process is completed and approval granted.

TITLE SERVICE AGENT

A Title Service Agent is defined as any person who acts as an agent for a fee in making application for or obtaining:

1. A certificate of title of ownership of a vehicle;
2. Registration for or the license plate or plates for vehicles;
3. Renewing the registration of a vehicle;
4. Temporary registrations for a licensed Kansas vehicle dealer;
5. Title assignment addendums for a licensed Kansas vehicle dealer
6. Sales tax receipt books for a licensed Kansas vehicle dealer. Vehicle title service "agent" shall not include any person who is licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto, or any person who engages as a vehicle title service agent only for commercial vehicles, as defined under K.S.A. 8-1100 and amendments thereto.

TITLE QUESTIONS

If you have questions concerning titles please call 785-296-3621 and select option 2.

If your question pertains to liens or NSIs, please select option 5.

TRADE SHOW

A temporary Trade Show License for the purpose of displaying new trucks, truck tractors, or semitrailers or new recreational motor vehicles can be obtained with proper application and a fee of $50. The trade show cannot exceed four consecutive days. The trade show cannot be at a vehicle dealer's primary or supplemental location. No sales transactions may occur at the trade show location. A disclaimer that the truck, truck tractor, semitrailer or recreational vehicle is for display purposes only shall be placed on vehicles. Prior approval must be obtained from manufacturers and converters of each line-make of truck, truck tractor, semitrailer or recreational vehicle to be displayed at the trade show. Any dealer displaying at trade show, will be licensed in this state or in a state that permits Kansas vehicle dealers to participate in their vehicle shows.

- Trade show applications cannot be accepted without a sponsor
- If a trade show has less than 50 participants, at least 50% must be Kansas licensed dealers

Only two trade show licenses shall be issued per participant per license year

TRANSFER OF OWNERSHIP

If you sell your dealership:

Requirements of the Seller:

- Completion of the top of Owner Transfer(D-23)
- Complete listing of tag inventory

Requirements of the Buyer:

- Application (D-17A)
- Owner Transfer (form D-23)
- 30,000 Surety (Bond or Certificate of Deposit)

New & Used Vehicle or New & Used Manufactured Home Dealer
In addition to the above, a Franchise Agreement (form D-100) must be completed verifying the Manufacturers franchise agreement(s).

Salvage Vehicle Dealer
In addition to the above, a KDOT Certificate of Compliance (form D-35) must be completed and signed by the Kansas Department of Transportation certifying that the location still meets the Beautification Laws of Kansas.

Application/Transfer
Negotiations on fees paid per seller and buyer are the responsibility of both active parties. No application or transfer will be accepted or considered unless all applicable fees and the above mentioned requirements are received. In order to obtain a transfer, all documentation must be received together. Do not remit any forms separately.

HELPFUL LINKS

- **ATTORNEY GENERAL'S OFFICE**
  Consumer Protection
  http://ag.ks.gov/home
  (785) 296-3751

- **BUYERS GUIDES**
  Federal Trade Commission
  (877) 382-4357| www.ftc.gov

- **DEALER LICENSING**
  http://ksrevenue.org/dovdealer.html
  (785) 296-3621, opt 6| kdor_dealers.licensing@ks.gov
  North Central Region – Rod Allen (785) 640-8124
  South Central Region – April Bishop (785) 230-5566
  Central Region – Karen Smarsh (316) 258-3479
  Eastern Region – Mike Fracul (785) 640-8126
  Western Region – Francisco Aguilar (785) 230-7676

- **ELIEN**
  https://www.kselien.org
  (785) 296-3621, opt 5| kdor_KS.Elien@ks.gov

- **KANSAS AUTO DEALERS ASSOCIATION (KADA)**
  Odometer Statements
  www.kansasdealers.org
  (800) 279-8566 | info@kansasdealers.org

- **KANSAS HIGHWAY PATROL**
  www.kansashighwaypatrol.org
  (785) 296-6800 | info@khp.ks.gov

- **Kansas Vehicle Title Services Company, LLC**
  www.kvtsc.com
  (785) 215-8430 | info@KVTSC.org

- **TAXATION**
  http://ksrevenue.org/business.html
  (785) 368-8222

- **TITLES & REGISTRATION**
  http://ksrevenue.org/dovtitle.html
  (785) 296-3621, opt 2| kdor_tr@ks.gov

A DEALER'S GUIDE TO THE USED CAR RULE

The used car rule applies in all states except Maine and Wisconsin. These two states are exempt because they have similar regulations that require dealers to post disclosures on used vehicles. The rule applies in the District of Columbia, Puerto Rico, Guam, the U.S Virgin islands, and American Samoa.

Most car dealers who sell more than five used vehicles in a 12 month period must comply with the rule. Banks and financial institutions are exempt from the rule, as are businesses that sell vehicles to their employees, and lessor who sell a leased vehicle to a lessee, or buyer found by the lessee.

This booklet defines the Rule's requirements, explains how to prepare and display the Buyers Guide, and offers a compliance checklist.

You must post a Buyer's Guide before you "offer" a used vehicle for sale. A vehicle is offered for sale when you let a customer inspect it for the purpose of buying it, even if the car is not fully prepared for delivery.

Previously titled or not, any vehicle driven for purposes other than moving or test driving is considered a used vehicle, including light-duty vans, light-duty truck demonstrators and program cars that met the following specifications:

- A gross vehicle weight rating(GVWR)of less than 8,500 pounds
- A curb weight of less than 6000 pounds
- A frontal area of less than 64 square feet

Exceptions to the Rule are:

- Motorcycles
- Any vehicle sold for scrap/parts, if dealer submits title document to the appropriate state authority & obtains a salvage certification
- Agricultural equipment

THE BUYER'S GUIDE

The Buyer's Guide is a disclosure document that gives consumers important purchasing and warranty information and tells the consumer:

- What type of warranty the vehicle is being sold with
- What percentage of the repairs costs a dealer will pay under warranty
- Oral promises are difficult to enforce
- Get all promises in writing
- Keep the Buyer's Guide for reference after the sale
- The major mechanical and electrical systems on the car, as well as some of the major problems that consumer should look out for
- Ask to have the car inspected by an independent mechanic before they buy

If you conduct a used car transaction in Spanish, you must post a Spanish language Buyers Guide on the vehicle before you offer it for sale.

The Buyer's Guide must be posted prominently and conspicuously on or in a vehicle when a car is available for sale, and in such a way that both sides are readable. That means you can hang the Guide from the rear-view mirror inside the car or on a side-view mirror outside the car. The Guide also can be attached to a side window. A Guide in a glove compartment, trunk or under the seat is not conspicuous.

You may remove the Guide for a test drive, but you must replace it as soon as the test drive is over.

VEHICLE INFORMATION
At the top of the Guide, fill in the vehicle make, model, model year, and vehicle identification number (VIN). Write in a dealer stock number if you wish.

DEALER INFORMATION
On the back of the Guide, fill in the name and address of your dealership and the name and telephone number of the person the consumer should contact with complaints. You may use a rubber stamp or preprint your Guide with this information.

OPTIONAL SIGNATURE LINE
You may include a signature line on the guide and you may ask the buyer to sign and acknowledge that he or she has received it. If you opt for a signature line, you must include a disclosure near it that says: "*I hereby acknowledge receipt of the Buyers Guide at the closing of this sale".* This language can be preprinted on the form. The signature line and the required disclosure must appear in the space provided for the name of the individual to be contacted in the event of complaints after the sale.

WARRANTY INFORMATION
An FTC Buyer's Guide must be properly completed and displayed in all vehicles for public sale. Kansas Law forbids the selling of vehicles "as-is", as well as any attempt by the dealer to limit or disclaim the implied warranty. In Kansas there are basically two types of warranties that cover vehicle transactions, expressed warranties and implied warranties.

The basis of warranty law under the Magnuson-Moss Warranty Act, is that goods sold carry with them certain warranties as to their quality and performance, and that if the goods do not meet these standards, then the buyer has a remedy. The seller's good faith, ignorance of the products defect or best efforts in making or selling the goods are not defenses. If the goods do not meet the promised warranty standard, the buyer has remedies as specified by various warranty laws.

The two major types of warranties are express and implied. Express warranties are created affirmatively by the seller, and implied warranties are created by law (KSA 50-639). There is also a warranty of good title promising that the seller can pass good title to the buyer for any goods sold. There may be express and implied warranties from both the seller and the manufacturer. There can be, and usually are, multiple warranties in the same transaction. Warranties are construed as consistent with each other and cumulative wherever possible.

EXPRESS WARRANTIES
Express warranties can arise through the seller's or manufacturer's affirmation of fact or promise description of the goods, or a sample or model. The express warranty is that the product will meet these representations. The affirmation of fact or description may be oral or written. A written warranty certificate is obviously an express warranty. Advertising, oral statements volunteered by the seller, the seller's statements in response to the buyers questions, and even statements or promises made after the sale are also express warranties.

IMPLIED WARRANTIES
The implied warranty of merchantability is not created by the seller's statements or conduct, but implied in the sale of new or used goods (vehicles) whenever the seller is a merchant with respect to the goods. The implied warranty is created by law and not by the seller. The implied warranty of merchantability promises that the goods (vehicle) are fit for the ordinary purpose for which they are used. The goods (vehicle) must be able to do the ordinary job with reasonable safety, efficiency, and comfort.

OWNERSHIP TRANSFER BY POWER OF ATTORNEY
The general power of attorney, form TR-41, can be used when a vehicle is exempt from odometer disclosure statement requirements. The seller authorizes a person(s) or dealership to sign the title on the owner's behalf. A general power of attorney may only be used once per transaction. The power of attorney must be the original document and is to be attached to the application. A power of attorney will not be returned. A secure power of attorney is used when a vehicle is subject to odometer disclosure statement requirements and the title has been lost and a dealer is applying for a duplicate for the owner. The actual odometer disclosure statement is on the secured power of attorney to the title assignment. The secured power of attorney is the official odometer disclosure statement. The second secured page/copy of the Kansas secure power of attorney is to be attached to the title. The top of first page is returned to the Kansas Division of Vehicles. If another state's power of attorney is attached to the title, it must be a "secure" page or copy (complies with Federal 49 CFR PART 3 and 13).

SECURE POWER OF ATTORNEY
A Secure Power of Attorney is a form that is printed with security features that is controlled by sequential numbering and has three sections. The reason for all of these details is this form is not only used to appoint someone as power of attorney, it is the form the odometer disclosure statement is made on between the buyer and seller. Federal law prohibits the same person to act as both buyer and seller with regards to the odometer disclosure. There is a fee for the Secure Power of Attorney forms and they must be obtained from the Kansas Auto Dealers Association.

This form is used when the vehicle being traded in or sold to the dealership requires an odometer disclosure statement (ODS) and the title is being held by the lien holder, or is a paperless title (title will not be issued by the state until all liens are released), or if the owner has lost their title and a duplicate will need to be applied for and issued. An ODS is required when the vehicle is an auto or light truck (registered for 16,000 pounds or less) and is 10 years old or less.

This form is not required as long as the customer will return to the dealership to assign the

vehicle title over to the dealership. However, with the State of Kansas becoming a paperless title state in 2003, the use of this form will become more common place.

a. When a customer trades in a vehicle to a dealership and the title is held by the lien holder, or is an etitle/paperless, or is lost and an application for duplicate title will be necessary, complete section "A" of the Secure Power of Attorney. (Owner on the face of the title appoints the dealership as power of attorney and completes the odometer disclosure statement-mileage).

b. When a vehicle for which section "A" of the Secured Power of Attorney has been completed is sold, but the dealership has not received the title, complete section "B" of the Secure Power of Attorney. The new buyer of the vehicle appoints the dealership as power of attorney and completes the odometer disclosure statement-mileage.

c. When the title has been received by the dealership and the mileage and status listed on the face of the title are not in conflict* with the mileage reported in section "A" of the Secure Power of Attorney, complete section "C" of the Secure Power. (Sections "A" and "B" must be completed before section "C" is necessary).

*Refer to Certification-Section C in this document for the definition of "in conflict".

VEHICLE DESCRIPTION

This field is located at the top of the form and must be completed in its entirety.

TRANSFEROR'S POWER OF ATTORNEY TO DISCLOSE MILEAGE– SECTION A

This section must be completed when the transferor (individual or business listed on the front of the title as owner) is appointing the transferee (dealership taking the vehicle in as trade or purchase) as their attorney-in-fact for the purpose of recording the mileage reported on the secure power of attorney onto transferor's title and to assign the title to the transferee/dealership.

The transferor/owner on the face of the title is to complete all the information in section "A" except for the transferee's information at the bottom of this section.

An authorized agent of the dealership is to sign and hand print their personal name as the transferee's signature and printed name. The dealership's name and address is to be entered next to the transferee's dealership name and business street address, city, state and zip.

The goldenrod copy of the form is to be given to the transferor/owner on the face of the title after all parties have completed section "A".

TRANSFEREE'S POWER OF ATTORNEY TO REVIEW TITLE DOCUMENTS AND ACKNOWLEDGE DISCLOSURE – SECTION B

Section "A" must have been completed before Section "B" can be used.

Section "B" is used when the vehicle has been sold before the title has been received from the lien holder or the duplicate title has been received from the state.

In Section “B” the transferee will be the buyer/customer and the transferor will be the seller/dealership. The transferee/buyer must complete the top portion of this section. The transferor/dealership will complete the bottom portion of this section. Preferably, the same authorized agent of the dealership that signed and hand printed their personal name as the transferee’s signature and printed name under Section “A” will do the same in Section “B”. However, as long as the person that signs and hand prints their name is an authorized agent for the dealership, it could be a different person.

The yellow copy of the form is to be given to the transferee/customer after all parties have completed Section “B”.

CERTIFICATION - SECTION C

Section “A” and “B” must have been completed before Section “C” is to be used.

The dealership completes Section “C’ when the title has been received and the dealership is certifying that the mileage stated on the secure power of attorney is greater than that listed on the title and the mileage status follows the proper order of progression.

If the mileage and/or the mileage status stated on the secure power of attorney is in conflict with the mileage and/or the mileage status listed on the title, the secure power of attorney is void.

The phrase “in conflict” means the mileage itself is a lower number on the secure power of attorney than the title. The mileage status has a progression or an order that must be followed. If the mileage status does not follow this progression, then it would be “in conflict”.

The order of progression is:

1. Actual can stay actual or, change to exceeds mechanical limits or not actual.
2. Exceeds can stay exceeds or change to not actual. The mileage status cannot be declared as actual after exceeds has been declared.
3. Not actual must stay as not actual. The mileage status cannot be declared as actual or exceeds after not actual has been declared.

TRANSFERRING INFORMATION FROM SECURED POWER OF ATTORNEY TO TITLE ASSIGNMENT(S)

Once the dealership has received the title, the information on the secure power of attorney is to be transferred to the appropriate assignment space on the back of the title.

Information in Section “A” will be transferred into the first assignment from the owner(s) on the face of the title to the dealership.

If the vehicle has been sold (before the dealership received the title), the information in Section “B” will be transferred into the dealership to the buyer(s)

The same person from the dealership can sign as both buyer and seller. When signing as the power of attorney, sign the name of the seller (first assignment) and/or buyer (second assignment) followed by the name of the person that actually signed denoting the power of attorney.

Example: John Smith by Jane Doe-Secured Power of Attorney (1st Assignment-John Smith

is the seller and Jane Doe works for the dealership)

DISTRIBUTION OF COPIES

The original or top copy of the secure power of attorney is to be submitted to Titles and Registrations with a copy of the front and back of the title assignment using the secure power of attorney. Mail to: Kansas Department of Revenue; Titles and Registrations; Docking State Office Building; Topeka, Kansas 66626-0001.

The second copy, which is also a secure copy, is to be attached to the actual title and given to the new buyer.

The pink copy, along with a copy of the front and back of the title assigned using the secure power of attorney, is to be retained by the dealership for five years.

The yellow copy is to be given to the transferee/customer after all parties have completed Section “B” (The goldenrod copy will have been previously given to the transferor listed in Section “A”. If Section “B” is not used, the yellow copy may be disregarded.

The goldenrod copy is to be given to the transferor/owner on the face the title after all parties have completed Section “A”

Kansas
Department of Revenue

Kansas Statutes

&

Regulations

8-113: Identity of vehicles; unlawful acts; penalty.
Any person who shall destroy or cause to be destroyed, remove or cause to be removed, alter or deface, or cause to be altered or defaced, the engine number, identification number, or serial number of any motor vehicle in this state, or who shall change any identification number from one motor vehicle to another, or who shall give a wrong description in an application for the registration of any motor vehicle in this state, for the purpose of concealing or hiding the identity of such motor vehicle, or any person who shall copy, print, photostat or cause to be copied, printed or photostatted for a fraudulent purpose or for the purpose of producing a fictitious title, alter or deface or cause to be altered or defaced or knowingly have in possession any fictitious, fraudulent, or counterfeit certificates of title, ownership certificates or registration receipts shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the custody of the secretary of corrections for a term of not less than one year nor more than five years.

8-113a: Reporting stored, unclaimed vehicles to department, when; penalty for failure.
An operator of a place of business for garaging, repairing, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of 30 days, shall within seven days after the expiration of that period, report the vehicle as unclaimed to the department. A vehicle left by its owner whose name and address are known to the operator or an employee of the operator is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this section is guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than $10 for each day such failure to report continues.

8-116: Vehicle identification number offenses; possession or sale of vehicle without original VIN; removing or altering VIN; penalties; vehicle seizure and disposition.

(a) It is unlawful to sell, barter or exchange any motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection (a) is a severity level 10, nonperson felony.

(b) It is unlawful to knowingly own or have the custody or possession of a motor vehicle, trailer or semitrailer, the original vehicle identification number of which has been destroyed, removed, altered or defaced, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen and a vehicle identification number has been assigned to the motor vehicle according to law. Violation of this subsection (b) is a class C misdemeanor.

(c) Any person who shall destroy, remove, alter or deface any vehicle identification number, except as contemplated by K.S.A. 8-116a, and amendments thereto, when no part of the motor vehicle, trailer or semitrailer has been stolen, is guilty of a severity level 10, nonperson felony.

(d) Every law enforcement officer in this state having knowledge of a motor vehicle, trailer or semitrailer the vehicle identification number of which has been destroyed, removed, altered or defaced shall seize and take possession of such motor vehicle, trailer or

semitrailer, arrest the owner or custodian thereof and cause prosecution to be brought in a court of competent jurisdiction. The provisions of K.S.A. 22-2512, and amendments thereto, shall apply to any motor vehicle, trailer or semitrailer seized under this section.

8-116a: Vehicle identification number; check of assembled vehicles by highway patrol; original Kansas certificates of title on out-of-state vehicles; check by designee or employee of new vehicle dealer, when; fees and disposition thereof.

(a) Except as provided in K.S.A. 8-170, and amendments thereto, when an application is made for a vehicle which has been assembled, reconstructed, reconstituted or restored from one or more vehicles, or the proper identification number of a vehicle is in doubt, the procedure in this section shall be followed. The owner of the vehicle shall request the Kansas highway patrol to check the vehicle and the highway patrol shall within a reasonable period of time perform such vehicle check. At the time of such check the owner shall supply the highway patrol with information concerning the history of the various parts of the vehicle. Such information shall be supplied by affidavit of the owner, if so requested by the highway patrol. If the highway patrol is satisfied that the vehicle contains no stolen parts, it shall assign an existing or new identification number to the vehicle and direct the places and manner in which the identification number is to be located and affixed or implanted. A charge of $15 per hour or part thereof, with a minimum charge of $15, and on and after July 1, 2012, a charge of $20 per hour or part thereof, with a minimum charge of $20, shall be made to the owner of a vehicle requesting check under this subsection, and such charge shall be paid prior to the check under this section. When a check has been made under subsection (b), not more than 60 days prior to a check of the same vehicle identification number, requested by the owner of the vehicle to obtain a regular certificate of title in lieu of a nonhighway certificate of title or obtain a rebuilt salvage title in lieu of a salvage title, no charge shall be made for such second check.

(b) Any person making application for any original Kansas title for a used vehicle which, at the time of making application, is titled in another jurisdiction, as a condition precedent to obtaining any Kansas title, shall have such vehicle checked by the Kansas highway patrol for verification that the vehicle identification number shown on the foreign title is genuine and agrees with the identification number on the vehicle. Checks under this section may include inspection for possible violation of K.S.A. 2012 Supp. 21-5835, and amendments thereto, or other evidence of possible fraud. The verification shall be made upon forms prescribed by the division of vehicles which shall contain such information as the secretary of revenue shall require by rules and regulations. A charge of $15 per hour or part thereof, with a minimum charge of $15, and on and after July 1, 2012, a charge of $20 per hour or part thereof, with a minimum charge of $20, shall be made for checks under this subsection. When a vehicle is registered in another state, but is financed by a Kansas financial institution and is repossessed in another state and such vehicle will not be returned to Kansas, the check required by this subsection shall not be required to obtain a valid Kansas title or registration.

(c) As used in this act, "identification number" or "vehicle identification number" means an identifying number, serial number, engine number, transmission number or other distinguishing number or mark, placed on a vehicle, engine, transmission or other essential part by its manufacturer or by authority of the division of vehicles or the Kansas highway patrol or in accordance with the laws of another state or country.

(d) The checks made under subsection (b) may be made by:

(1) A designee of the superintendent of the Kansas highway patrol; or

(2) an employee of a new vehicle dealer, as defined in subsection (b) of K.S.A. 8-2401, and amendments thereto, for the purposes provided for in subsection (f). For checks made by a designee or new vehicle dealer, 10% of each charge shall be remitted to the Kansas highway patrol and the balance of such charges shall be retained by such designee or new vehicle dealer. If the designee is a city or county law enforcement agency, then the balance shall be paid to the law enforcement agency that conducted the inspection. When a check is made under either subsection (a) or (b) by personnel of the Kansas highway patrol, the entire amount of the charge therefor shall be paid to the highway patrol.

(e) There is hereby created the vehicle identification number fee fund. The Kansas highway patrol shall remit all moneys received by the Kansas highway patrol from fees collected under subsection (d) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle identification number fee fund. All expenditures from the vehicle identification number fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the superintendent of the Kansas highway patrol or by a person or persons designated by the superintendent.

(f) An employee of a new vehicle dealer, who has received initial training and certification from the highway patrol, and has met continuing certification requirements, in accordance with rules and regulations adopted by the superintendent of the highway patrol, may provide the checks under subsection (b), in accordance with rules and regulations adopted by the superintendent of the highway patrol, on motor vehicles that a new vehicle dealer purchases through a manufacturer's sponsored auction or on motor vehicles repurchased or reacquired by a manufacturer, distributor or financing subsidiary of such manufacturer and which are purchased by the new vehicle dealer. At any time, after a hearing in accordance with the provisions of the Kansas administrative procedure act, the superintendent of the highway patrol may revoke, suspend, decline to renew or decline to issue certification for failure to comply with the provisions of this subsection, including any rules and regulations.

8-119: Penalty for violating 8-113 and 8-116.
The violation of any of the provisions of this act, except as otherwise herein provided, shall be deemed a misdemeanor, and shall be punishable by a fine not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days.

8-120: Validity of 8-113, 8-116 and 8-119.
If any section or provision of this act shall be found invalid by any court, it shall be conclusively presumed that this act would have been passed by the legislature without such invalid section or provision and the act as a whole shall not be declared invalid by reason of the fact that one or more sections or provisions may be found invalid by any court.

8-126: Definitions. The following words and phrases when used in this act shall have the

meanings respectively ascribed to them herein:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

(c) "Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(d) "Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor" means every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(h) "Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle" means every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person" means every natural person, firm, partnership, association or corporation.

(n) "Owner" means a person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident" means every person who is not a resident of this state.

(p) "Manufacturer" means every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging new motor vehicles, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer" means every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, travel trailers, trailers or vehicles.

(s) "Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

(u) "Commission" or "state highway commission" means the director of vehicles of the department of revenue.

(v) "Division" means the division of vehicles of the department of revenue.

(w) "Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

(x) "Passenger vehicle" means every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement" means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer" means every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

(aa) "Motorized bicycle" means every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has:

(1) A motor which produces not more than 3.5 brake horsepower;

(2) a cylinder capacity of not more than 130 cubic centimeters;

(3) an automatic transmission; and

(4) the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle" means any motorized nonhighway vehicle 50 inches or less in width, having a dry weight of 1,500 pounds or less, traveling on three or more nonhighway tires, having a seat designed to be straddled by the operator. As used in this subsection, nonhighway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 14 inches or less.

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

(1) A farm tractor;

(2) a self-propelled farm implement;

(3) a fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto,

regardless of ownership;

(4) a truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(5) a mixer-feed truck owned and used by a feedlot, as defined in K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing food to livestock in such feedlot.

(dd) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.

(ee) "Oil well servicing, oil well clean-out or oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is an oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

(ff) "Electric personal assistive mobility device" means a self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

(gg) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 2012 Supp. 8-135d, and amendments thereto.

(hh) "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck or recreational off-highway vehicle.

(ii) "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle or recreational off-highway vehicle.

(jj) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.

(kk) "Recreational off-highway vehicle" means any motor vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, traveling on four or more nonhighway tires, having a nonstraddle seat and steering wheel for steering control.

(ll) "Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

8-126a: Number plates or tags; definitions.

Whenever in this act or in any other law of this state relating to registration of motor vehicles any of the following words or terms are used: 1. Number plate or plates. 2. License number

plates. 3. License number plate. 4. Number plate. 5. Number plates. 6. Registration number plate. 7. License tags. 8. Tags; or any other word, term or phrase of similar import or meaning is used in any such law, the same shall be construed to mean and include any plate, tag, token, marker or sign issued under the provisions of this act for the purpose of identifying vehicles registered under the provisions of the motor-vehicle registration laws of this state or otherwise carrying out the provisions of such laws.

8-127: Registration of vehicles operated in this state; exceptions; temporary operation of certain vehicles without registration, when.

(a) Every owner of a motor vehicle, motorized bicycle, trailer or semitrailer intended to be operated upon any highway in this state, whether such owner is a resident of this state or another state, or such motor vehicle, motorized bicycle, trailer or semitrailer is based in this state or another state, before any such vehicle is operated in this state, shall apply for and obtain registration in this state under the provisions of K.S.A. 8-126 to 8-149, inclusive, and amendments thereto, except as otherwise provided by law or by any interstate contract, agreement, arrangement or declaration made by the director of vehicles.

(b) Any truck or truck tractor bearing registration of a state other than Kansas which is engaged in intrastate movements within this state shall have Kansas registration, except such vehicles which are registered under the provisions of K.S.A. 8-1,101 to 8-1,123, inclusive, and amendments thereto, and except such vehicles as are entitled to engage in intrastate movements within this state under any interstate contract, agreement, consent, arrangement or declaration made by the director of vehicles.

(c) Whenever any person has a current motorcycle, motorized bicycle, passenger vehicle, truck or truck tractor registration and license plate for a vehicle which has been sold, traded or otherwise disposed of not later than 60 days, inclusive of weekends and holidays, after acquiring another motorcycle, motorized bicycle, passenger vehicle, truck or truck tractor to which the registration and license plate will be transferred and such person has complied with all of the conditions precedent to the transfer of the registration except having the registration transferred in the office of the county treasurer, such person may operate the motorcycle, motorized bicycle, passenger vehicle, truck or truck tractor acquired for a period of not to exceed 60 days, inclusive of weekends and holidays, after acquiring the same and pending transferal of registration and license plate in the office of the county treasurer by displaying the motorcycle license plate on the motorcycle acquired, the motorized bicycle license plate on the motorized bicycle acquired, the passenger vehicle license plate on the passenger vehicle acquired, or the truck or truck tractor license plate on the truck or truck tractor acquired. If the acquired vehicle is a new vehicle, such person also must carry and have in possession the assigned certificate of title or bill of sale when operating the acquired vehicle during such sixty-day period.

8-127a: Registration prohibited for vehicle subject to federal use tax, when; proof of payment of tax.

No vehicle, subject to the use tax imposed by section 4481 of the internal revenue code of 1954, shall be registered in this state without presentation of proof of payment of such tax, in such form as may be prescribed by the secretary of the treasury of the United States of America.

8-128: Registration of vehicles, exceptions.

(a) The following need not be registered under this act, any:

(1) Implement of husbandry;

(2) all-terrain vehicle;

(3) micro utility truck;

(4) golf cart;

(5) work-site utility vehicle;

(6) road roller or road machinery temporarily operated or moved upon the highways;

(7) municipally owned fire truck;

(8) privately owned fire truck subject to a mutual aid agreement with a municipality;

(9) school bus owned and operated by a school district or a nonpublic school which has the name of the municipality, school district or nonpublic school plainly painted thereon;

(10) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered; or

(11) farm trailer used and designed for transporting hay or forage from a field to a storage area or from a storage area to a feedlot, which is only incidentally moved or operated upon the highways, except that this paragraph shall not apply to a farm semitrailer.

(b) Self-propelled cranes where the crane operator on a job site operates the controls of such crane from a permanent housing or module on the crane and the crane is not used for the transportation of property, except the property that is required for the operation of the crane itself and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage, delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles.

(c) Oil well servicing, oil well clean-out or oil well drilling machinery or equipment need not be registered under this act but shall comply with all the other requirements of the law relating to motor vehicles.

(d) A truck permanently mounted with a hydraulic concrete pump and placing boom may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without being registered under this act, but shall comply with all the other requirements of the law relating to motor vehicles. The provisions of this subsection shall not apply to ready-mix concrete trucks.

8-129: Application for registration; certificate of title.

(a) Applications for the registration of a vehicle required to be registered shall be made by the owner, by mail, on-line, electronically or otherwise, in the office of the county treasurer of:

(1) The county in which such owner resides; or

(2) the county in which the owner has a bona fide place of business, if such vehicle is garaged in such county for a period exceeding 90 days. Such place of business shall not be an office or facility established or maintained solely for the purpose of obtaining registration.

Such applications for registration shall be made upon appropriate forms furnished by the department and every application shall contain the name of the owner, such owner's residence address or bona fide place of business, a brief description of the vehicle to be registered and such other information as may be required by the department. If the owner is not a resident of or does not have a bona fide place of business in this state, the owner may make application for registration in any county which the department shall designate, except that in the case of members of the armed forces of the United States, the application may be signed by the owner's spouse, parent, eldest brother or sister, in the order named. With reference to every foreign vehicle which has been registered outside of this state, the owner shall exhibit to the department the certificate of title and registration card, or other evidence of such former registration as may be in the applicant's possession or control, or such other evidence as will satisfy the department that the applicant is the lawful owner or possessor of the vehicle.

(b) The applicant for the registration of a vehicle required to be registered, upon the filing of the application, shall submit a statement certifying that such person has a certificate of title for the motor vehicle, showing the date and identification thereof, or file an application therefor, as provided in this act.

8-130: Register of applications to be kept by division of vehicles.

The division of vehicles shall maintain a register of applications received, and when satisfied as to the genuineness and regularity thereof, and that the applicant is entitled thereto, shall register the vehicle therein described as shall be determined by the division, and to have such accessible, so that the vehicle data can be properly located upon sufficient information given the division.

8-131: Registration receipts.

(a) Upon the filing of such application for registration, payment of the fees hereinafter provided the division of vehicles shall register the vehicle and shall issue to the owner a registration receipt which shall contain upon the face thereof the registration number assigned to the owner and to be used upon the vehicle, and such other statements of facts as may be determined by the division.

8-133. Display of license plate.

The license plate assigned to the vehicle shall be attached to the rear thereof and shall be so displayed during the current registration year or years. A Kansas registered vehicle shall have no registration plate for any year on the front of the vehicle, except that: (a) The license plate issued for a truck tractor shall be attached to the front of the truck tractor; (b) a model year license plate may be attached to the front of an antique vehicle, in accordance with K.S.A. 8-172, and amendments thereto; or (c) a personalized license plate as authorized under subsection (c) of K.S.A. 8-132, and amendments thereto, may be attached to the front of a passenger vehicle or truck. Every license plate shall at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging, and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible. During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132 and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the director of vehicles.

8-135. Transfer of ownership of vehicles; registration; fees and penalties; certificate of title, form, fee; assignment and reassignment; liens, statement of, release of, liability for failure to comply, notice of security interest, execution; purchase and sale of vehicle, requirements; written consent by lienholder; transfer-on-death; reaffirmation of sale; assignment of title form; electronic certificate of title; reassignment forms; export title; rebuilt salvage vehicle.

(a) Upon the transfer of ownership of any vehicle registered under this act, the registration of the vehicle and the right to use any license plate thereon shall expire and thereafter there shall be no transfer of any registration, and the license plate shall be removed by the owner thereof. Except as provided in K.S.A. 8-172, and amendments thereto, and 8-1,147, and amendments thereto, it shall be unlawful for any person, other than the person to whom the license plate was originally issued, to have possession thereof. When the ownership of a registered vehicle is transferred, the original owner of the license plate may register another vehicle under the same number, upon application and payment of a fee of $1.50, if such other vehicle does not require a higher license fee. If a higher license fee is required, then the transfer may be made upon the payment of the transfer fee of $1.50 and the difference between the fee originally paid and that due for the new vehicle.

(b) Subject to the provisions of subsection (a) of K.S.A. 8-198, and amendments thereto, upon the transfer or sale of any vehicle by any person or dealer, or upon any transfer in accordance with K.S.A. 59-3511, and amendments thereto, the new owner thereof, within 60 days, inclusive of weekends and holidays, from date of such transfer shall make application to the division for registration or reregistration of the vehicle, but no person shall operate the vehicle on any highway in this state during the sixty-day period without having applied for and obtained temporary registration from the county treasurer or from a dealer. After the expiration of the sixty-day period, it shall be unlawful for the owner or any other person to operate such vehicle upon the highways of this state unless the vehicle has been registered as provided in this act. For failure to make application for registration as provided in this section, a penalty of $2 shall be added to other fees. When a person has a current motorcycle or passenger vehicle registration and license plate, including any registration decal affixed thereto, for a vehicle and has sold or otherwise disposed of the vehicle and has acquired another motorcycle or passenger vehicle and intends to transfer the registration and the license plate to the motorcycle or passenger vehicle acquired, but has not yet had the registration transferred in the office of the county treasurer, such person may operate the motorcycle or passenger vehicle acquired for a period of not to exceed 60 days by displaying the license plate on the rear of the vehicle acquired. If the acquired vehicle is a new vehicle such person also must carry the assigned certificate of title or manufacturer's statement of origin when operating the acquired vehicle, except that a dealer may operate such vehicle by displaying such dealer's dealer license plate.

(c) Certificate of title: No vehicle required to be registered shall be registered or any license plate or registration decal issued therefor, unless the applicant for registration shall present satisfactory evidence of ownership and apply for an original certificate of title for such vehicle. The following paragraphs of this subsection shall apply to the issuance of a certificate of title for a nonhighway vehicle, salvage vehicle or rebuilt salvage vehicle, as defined in K.S.A. 8-197, and amendments thereto, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 8-198, and amendments thereto, and to any electronic certificate of title, except to the extent such paragraphs are made inapplicable by or are inconsistent with K.S.A. 2012 Supp. 8-135d, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 2012 Supp. 8-135d, and amendments thereto.

The provisions of paragraphs (1) through (14) shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such vehicle.

(1) An application for certificate of title shall be made by the owner or the owner's agent upon a form furnished by the division and shall state all liens or encumbrances thereon, and such other information as the division may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a vehicle having any unreleased lien or encumbrance thereon, unless the transfer of such vehicle has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the division. In the case of members of the armed forces of the United States while the United States is engaged at war with any foreign nation and for a period of six months next following the cessation of hostilities, such application may be signed by the owner's spouse, parents, brother or sister. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of such vehicle, or otherwise entitled to have the same registered in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title. The certificate of title shall be in a form approved by the division, and shall contain a statement of any liens or encumbrances which the application shows, and such other information as the division determines.

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the vehicle at the time of assignment. The certificate of title shall also contain on the reverse side blank spaces so that an abstract of mileage as to each owner will be available. The seller at the time of each sale shall insert and certify the mileage and the purchase price on the form filed for application or reassignment of title, and the division shall insert such mileage on the certificate of title when issued to purchaser or assignee. The signature of the purchaser or assignee is required on the form filed for application or reassignment of title, acknowledging the odometer and purchase price certification made by the seller, except that vehicles which are 10 model years or older and trucks with a gross vehicle weight of more than 16,000 pounds shall be exempt from the mileage acknowledgment requirement of the purchaser or assignee. Such title shall indicate whether the vehicle for which it is issued has been titled previously as a nonhighway vehicle or salvage vehicle. In addition, the reverse side shall contain two forms for reassignment by a dealer, stating the liens or encumbrances thereon. The first form of reassignment shall be used only when a dealer sells the vehicle to another dealer. The second form of reassignment shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle. The reassignment by a dealer shall be used only where the dealer resells the vehicle, and during the time that the vehicle remains in the dealer's possession for resale, the certificate of title shall be dormant. When the ownership of any vehicle passes by operation of law, or repossession upon default of a lease, security agreement, or executory sales contract, the person owning such vehicle, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the vehicle. When a vehicle is registered in another state and is repossessed in another state, the owner of such vehicle shall not be entitled to obtain a valid Kansas title or registration, except that when a vehicle is registered in another state, but is financed originally by a financial institution chartered in the state of Kansas or when a financial institution chartered in Kansas purchases a pool of motor vehicle loans from the resolution trust corporation or a federal regulatory agency, and the vehicle is repossessed in another state, such Kansas financial institution shall be entitled to obtain a valid Kansas title or registration. In addition to any other fee required for the issuance of a certificate of title, any applicant obtaining a certificate of title

for a repossessed vehicle shall pay a fee of $3.

(3) Dealers shall execute, upon delivery to the purchaser of every new vehicle, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the vehicle or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the division. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the division. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new vehicle, sold in this state, a certificate of title shall be issued if there is also an application for registration, except that no application for registration shall be required for a travel trailer used for living quarters and not operated on the highways.

(4) The fee for each original certificate of title shall be $10 in addition to the fee for registration of such vehicle, trailer or semitrailer. The certificate of title shall be good for the life of the vehicle, trailer or semitrailer while owned or held by the original holder of the certificate of title.

(5) Except for a vehicle registered by a federally recognized Indian tribe, as provided in paragraph (16), upon sale and delivery to the purchaser of every vehicle subject to a purchase money security interest as provided in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and when so completed, the purchaser shall execute the notice, in a form prescribed by the division, describing the vehicle and showing the name and address of the secured party and of the debtor and other information the division requires. On and after July 1, 2007, only one lien shall be taken or accepted for vehicles with a gross vehicle weight rating of 26,000 pounds or less. As used in this section "gross vehicle weight rating" shall have the meaning ascribed thereto in K.S.A. 66-1,108, and amendments thereto. The dealer or secured party, within 30 days of the sale and delivery, may mail or deliver the notice of security interest, together with a fee of $2.50, to the division. The notice of security interest shall be retained by the division until it receives an application for a certificate of title to the vehicle and a certificate of title is issued. The certificate of title shall indicate any security interest in the vehicle. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the vehicle, as referenced in K.S.A. 2012 Supp. 84-9-311, and amendments thereto, on the date of such mailing or delivery. The county treasurers shall mail a copy of the title application to the lienholder. For any vehicle subject to a lien, the county treasurer shall collect from the applicant a $1.50 service fee for processing and mailing a copy of the title application to the lienholder.

(6) It shall be unlawful for any person to operate in this state a vehicle required to be registered under this act, or to transfer the title to any such vehicle to any person or dealer, unless a certificate of title has been issued as herein provided. In the event of a sale or transfer of ownership of a vehicle for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the vehicle, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the division and printed thereon and the transferor

shall deliver the same to the buyer at the time of delivery to the buyer of the vehicle or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery. The agreement of the parties shall be executed on a form provided by the division. The requirements of this paragraph concerning delivery of an assigned title are satisfied if the transferor mails to the transferee by restricted mail the assigned certificate of title within the 60 days, and if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title if the transferor has made application therefor to the division. The buyer shall then present such assigned certificate of title to the division at the time of making application for registration of such vehicle. A new certificate of title shall be issued to the buyer, upon payment of the fee of $10. If such vehicle is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. When a person acquires a security interest that such person seeks to perfect on a vehicle subsequent to the issuance of the original title on such vehicle, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in form prescribed by the division. Upon such surrender such person shall immediately deliver the certificate of title, application, and a fee of $10 to the division. Delivery of the surrendered title, application and tender of the required fee shall perfect a security interest in the vehicle as referenced in K.S.A. 2012 Supp. 84-9-311, and amendments thereto. On and after July 1, 2007, only one lien may be taken or accepted for security for an obligation to be secured by a lien to be shown on a certificate of title for vehicles with a gross vehicle weight rating, as defined in K.S.A. 66-1,108, and amendments thereto, of 26,000 pounds or less. A refinancing shall not be subject to the limitations of this act. A refinancing is deemed to occur when the original obligation is satisfied and replaced by a new obligation. Lien obligations created before July 1, 2007, which are of a continuing nature shall not be subject to the limitations of this act until the obligation is satisfied. A lien in violation of this provision is void. Upon receipt of the surrendered title, application and fee, the division shall issue a new certificate of title showing the liens or encumbrances so created, but only one lien or encumbrance may be shown upon a title for vehicles with a gross vehicle rating of 26,000 pounds or less, and not more than two liens or encumbrances may be shown upon a title for vehicles in excess of 26,000 pounds gross vehicle weight rating. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder shall comply with the provisions of K.S.A. 2012 Supp. 8-1,157 and amendments thereto.

(7) It shall be unlawful for any person to buy or sell in this state any vehicle required to be registered, unless, at the time of delivery thereof or at a time agreed upon by the parties, not to exceed 60 days, inclusive of weekends and holidays, after the time of delivery, there shall pass between the parties a certificate of title with an assignment thereof. The sale of a vehicle required to be registered under the laws of this state, without assignment of the certificate of title, is fraudulent and void, unless the parties shall agree that the certificate of title with assignment thereof shall pass between them at a time other than the time of delivery, but within 60 days thereof. The requirements of this paragraph concerning delivery of an assigned title shall be satisfied if (A) the seller mails to the purchaser by restricted mail the assigned certificate of title within 60 days, or (B) if the transferor is a dealer, as defined by K.S.A. 8-2401, and amendments thereto, such seller shall be deemed to have possession of the certificate of title if such seller has made application therefor to the division, or (C) if the transferor is a dealer and has assigned a title pursuant to paragraph (9) of this subsection

(c).

(8) In cases of sales under the order of a court of a vehicle required to be registered under this act, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such motor vehicle and for registering the same. Any such purchaser shall be allowed 60 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title and for the registering of such motor vehicle.

(9) Any dealer who has acquired a vehicle, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to obtain a Kansas certificate of title therefor during the time such vehicle remains in such dealer's possession and at such dealer's place of business for the purpose of sale. The purchaser or transferee shall present the assigned title to the division of vehicles when making application for a certificate of title as provided in subsection (c) (1).

(10) Motor vehicles may be held and titled in transfer-on-death form.

(11) Notwithstanding the provisions of this act with respect to time requirements for delivery of a certificate of title, or manufacturer's statement of origin, as applicable, any person who chooses to reaffirm the sale in writing on a form approved by the division which advises them of their rights pursuant to paragraph (7) of subsection (c) and who has received and accepted assignment of the certificate of title or manufacturer's statement of origin for the vehicle in issue may not thereafter void or set aside the transaction with respect to the vehicle for the reason that a certificate of title or manufacturer's statement of origin was not timely delivered, and in such instances the sale of a vehicle shall not be deemed to be fraudulent and void for that reason alone.

(12) The owner of any vehicle assigning a certificate of title in accordance with the provisions of this section may file with the division a form indicating that such owner has assigned such certificate of title. Such forms shall be furnished by the division and shall contain such information as the division may require. Any owner filing a form as provided in this paragraph shall pay a fee of $10. The filing of such form shall be prima facie evidence that such certificate of title was assigned and shall create a rebuttable presumption. If the assignee of a certificate of title fails to make application for registration, an owner assigning such title and filing the form in accordance with the provisions of this paragraph shall not be held liable for damages resulting from the operation of such vehicle.

(13) Application for a certificate of title on a boat trailer with a gross weight over 2,000 pounds shall be made by the owner or the owner's agent upon a form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. The application together with a bill of sale for the boat trailer shall be accepted as prima facie evidence that the applicant is the owner of the boat trailer, provided that a Kansas title for such trailer has not previously been issued. If the application and bill of sale are used to obtain a certificate of title for a boat trailer under this paragraph, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116a and amendments thereto, has been completed.

(14) In addition to the two forms for reassignment under paragraph (2) of subsection (c), a dealer may attach one additional reassignment form to a certificate of title. The director of vehicles shall prescribe and furnish such reassignment forms. The reassignment form shall be used by a dealer when selling the vehicle to another dealer or the ultimate owner of the vehicle only when the two reassignment forms under paragraph (2) of subsection (c) have already been used. The fee for a reassignment form shall be $6.50. A dealer may purchase

reassignment forms in multiples of five upon making proper application and the payment of required fees.

(15) A first stage manufacturer, as defined in K.S.A. 8-2401, and amendments thereto, who manufactures a motor vehicle in this state, and who sells such motor vehicles to dealers located in a foreign country, may execute a manufacturers statement of origin to the division of vehicles for the purpose of obtaining an export certificate of title. The motor vehicle issued an export certificate of title shall not be required to be registered in this state. An export certificate of title shall not be used to register such vehicle in the United States.

(16) A security interest in a vehicle registered by a federally recognized Indian tribe shall be deemed valid under Kansas law if validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

(17) On and after January 1, 2010, a certificate of title issued for a rebuilt salvage vehicle for the initial time, shall indicate on such title, the reduced classification of such vehicle as provided under K.S.A. 79-5104, and amendments thereto.

8-135a. Adding names of family members to titles and registrations.

A person in whose name a vehicle is titled and registered may add their spouse's name by assigning the title from the titleholder to titleholder and spouse and by applying for a name change title and registration. A son or daughter in whose name a vehicle is titled and registered may add a parent's name by assigning the title from such son or daughter to such son or daughter and parent and by applying for a name change title and registration. A parent may add a son or daughter's name by assigning the title from such parent to such parent and parent's son or daughter and by applying for a name change title and registration. Application for name change title and registration shall be made in the manner required by law, including certification of insurance coverage. The fee shall be $10 for the title, and no charge shall be made for the registration, except, when applicable, the fee for transfer of registration under K.S.A. 8-135, and amendments thereto.

8-136. Dealer license plates; manufacturers' and dealers' use and limitations on use; display; proof of payment of personal property tax before issuance; transportation of certain trailers.

(a) A licensed manufacturer of or licensed dealer in vehicles demonstrating, displaying or exhibiting any such vehicle upon any highway in lieu of registering each such vehicle, may obtain from the division of vehicles, upon application therefor upon the proper official form, and payment of the fees required by law, and attach to each such vehicle, one license plate which shall have a distinctive number, the name of this state, which may be abbreviated, and the year for which issued, together with the word "dealer" or a distinguishing symbol indicating that such license plate is issued to a manufacturer or dealer. Any such license plate may, during the calendar year for which issued, be transferred from one such vehicle to another owned or operated by such manufacturer or dealer. Such a license plate may be used in lieu of regular vehicle registration for the purposes of demonstrating, displaying or exhibiting vehicles held in inventory of such manufacturer or dealer. Such a license plate may also be used on such dealer's service vehicle, or substitute vehicles owned by the dealer but loaned to a customer when the dealer is repairing such customer's vehicle and for all other purposes incidental to a dealer's vehicle business. Except as provided in subsection (d), such a license plate may not be used by a manufacturer or dealer to haul commodities weighing in excess of two tons. Such license plates shall not be used on a wrecker or tow truck when providing wrecker or towing service as defined by K.S.A. 66-1329 and amendments thereto.

(b) No manufacturer of or dealer in vehicles shall cause or permit any such vehicle owned by such person to be operated or moved upon a highway unless there is displayed upon such vehicle a license plate as required by this section.

(c) No license plates shall be issued to any manufacturer or dealer unless such manufacturer or dealer at the time of making application therefor shall exhibit to the county treasurer or the division of vehicles a receipt showing that the applicant has paid all personal property taxes levied against such manufacturer or dealer for the preceding year, including taxes assessed against motor vehicles of such manufacturer or dealer which were assessed as stock in trade, or unless the manufacturer or dealer shall exhibit satisfactory evidence to the county treasurer that such manufacturer or dealer had no taxable property for the preceding year or if the application is made directly to the division of vehicles there shall be presented a statement by the county treasurer that the manufacturer or dealer had no taxable property for the preceding year. If application for registration is made before May 10, the receipt may show payment of only 1/2 of the preceding year's taxes.

(d) A trailer manufacturer or dealer is authorized to use a license plate issued under this section for the transportation of not more than four trailers. Such manufacturer or dealer shall be in compliance with the provisions of article 19 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

8-142. Unlawful acts.

It shall be unlawful for any person to commit any of the following acts and except as otherwise provided, violation is subject to penalties provided in K.S.A. 8-149, and amendments thereto:

First: To operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle, as defined in K.S.A. 8-126, and amendments thereto, which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8-1751a, and amendments thereto. A violation of this *First* by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under subsection (b) of K.S.A. 8-128, and amendments thereto, shall constitute an unclassified misdemeanor punishable by a fine of not less than $500.

Second: To display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this part *Second* shall constitute an unclassified misdemeanor punishable by a fine of not less than $100 and forfeiture of the item. A mandatory court appearance shall be required of any person violating this part *Second*. This part *Second* shall not apply to the possession of: (a) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or (b) distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.

Third: To lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.

Fourth: To fail or refuse to surrender to the division, upon demand, any registration receipt, certificate of title, registration license plate or registration decal which has been suspended, canceled or revoked.

Fifth: To use a false or fictitious name or address in any application for a certificate of title, the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

Sixth: For the owner of a motor vehicle to file application for the registration thereof, in any county other than the county in which the owner of the vehicle resides or has a bona fide place of business, which place is not an office or facility established or maintained solely for the purpose of obtaining registration.

Seventh: To operate on the highways of this state a vehicle or combination of vehicles whose weight with cargo is in excess of the gross weight for which the truck or truck tractor propelling the same is registered, except as provided by K.S.A. 8-143, and amendments thereto, and subsections (a) to (f), inclusive, of K.S.A. 8-1911, and amendments thereto. Such gross weight shall not be required to be in excess of the limitations described by K.S.A. 8-1908 and 8-1909, and amendments thereto, for such vehicle or combination of vehicles of which it is a part. Any person or owner who operates a vehicle in this state with a registration in violation of subsection (b) of K.S.A. 8-143, and amendments thereto, shall be required to pay the additional fee equal to the fee required by the applicable registration fee schedule, less the amount of the fee required for the gross weight for which the vehicle is registered to obtain the proper registration therewith. A fine of $75 shall be assessed for all such gross weight registration violations.

Eighth: To operate a local truck or truck tractor which is registered for a gross weight of more than 12,000 pounds as a common carrier outside a radius of three miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed or to operate any other local truck or truck tractor licensed for a gross weight of more than 12,000 pounds outside a radius of 25 miles beyond the corporate limits of the city in which such vehicle was based when registered and licensed, except as provided in subsection (b) of K.S.A. 8-143 or 8-143i, and amendments thereto.

Ninth: To operate on the highways of this state a farm truck or farm trailer other than to transport: (a) Agricultural products produced by such owner; (b) commodities purchased by the owner for use on the farm owned or rented by the owner of such vehicles; (c) commodities for religious or educational institutions being transported by the owner of such vehicles for charity and without compensation of any kind, except as provided in subsection (c) of K.S.A. 66-1,109, and amendments thereto; or (d) sand, gravel, slag stone, limestone, crushed stone, cinders, black top, dirt or fill material to a township road maintenance or construction site of the township in which the owner of such truck resides.

Tenth: To operate a farm truck or truck tractor used in combination with a trailer or semitrailer for a gross weight which does not include the empty weight of the truck or truck tractor or of the combination of any truck or truck tractor and any type of trailer or semitrailer, plus the maximum weight of cargo which will be transported on or with the same; and such farm truck or farm truck tractor used to transport a gross weight of more than 54,000 pounds shall have durably lettered on the side of the motor vehicle the words "farm vehicle—not for hire."

Eleventh: To operate on the highways of this state any truck or truck tractor without the current quarter of license fees being paid thereon.

Twelfth: To operate on the highways of this state a truck or truck tractor without carrying in the cab a copy of the registration receipt for such vehicle or without having painted or otherwise durably marked on said vehicle on both sides thereof, the gross weight for which said vehicle is licensed and the name and address of the owner thereof, except as provided in K.S.A. 8-143e, and amendments thereto.

Thirteenth: To operate on the highways of this state a farm trailer carrying more than 6,000 pounds without being registered and the registration fees paid thereon.

Fourteenth: To operate more than 6,000 miles in any calendar year any truck or truck tractor which has been registered and licensed to operate not more than 6,000 miles in such calendar year, as provided in subsection (b) of K.S.A. 8-143, and amendments thereto, unless the additional fee required by such subsection (b) has been paid.

Fifteenth: For any owner who has registered a truck or truck tractor on the basis of operating not more than 6,000 miles to fail to keep the records required by the director of vehicles, or to fail to comply with rules and regulations of the secretary of revenue relating to such registration.

Sixteenth: To operate a vehicle or combination of vehicles on the national system of interstate and defense highways with a gross weight greater than permitted by the laws of the United States Congress.

8-143g. Trip permits authorizing certain dealers to demonstrate trucks and truck tractors; fees; application; limitations; plate display; laws applicable; act supplemental; disposition of fees.

A motor vehicle dealer licensed in this state or in a state contiguous to this state, who is the owner of a truck or truck tractor which the owner desires to demonstrate under actual working conditions by having it operated by the prospective purchaser in interstate or intrastate commerce on the highways of this state, in lieu of obtaining a regular registration for such vehicle, may obtain from the division, or an agent designated by director of vehicles, a trip permit authorizing such demonstration and operation for a period of: (a) Seventy-two hours upon making proper application and the payment of a fee of $26, on January 1, 2013, $36, on January 1, 2014, $46; or (b) fifteen days upon making proper application and the payment of a fee of $100, on January 1, 2013, $110, on January 1, 2014, $120. A dealer may purchase such demonstration permits in multiples of three upon making proper application and the payment of required fees. The application shall be to the division on a form prescribed and furnished by the director of vehicles. The name of the prospective purchaser must be shown on the application. A dealer purchasing permits in multiples, shall complete the application and permit as required by the division and mail a copy of such application to the division within 24 hours from the date of issuance of such permit. Only one such permit may be used by the same prospective purchaser on the same truck or truck tractor. Whenever a truck or truck tractor is operated under the authority of a trip permit issued hereunder it also shall have displayed thereon a dealer's registration plate which has been issued by this state or a state contiguous to this state to the dealer who is the owner of such truck or truck tractor. The provision of K.S.A. 8-136 and amendments thereto, prohibiting the hauling of commodities in excess of two tons by a vehicle displaying a dealer plate shall not apply to a truck or truck tractor being operated under a trip permit as authorized by this section. This section shall be construed as a part of and supplementary to the motor vehicle registration law of this state. The division shall remit all fees collected under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

8-197 Definitions

(a) The provisions of K.S.A. 8-197 to 8-199, inclusive, and amendments thereto, shall be a part of and supplemental to the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and as used in such sections, the words and phrases defined by K.S.A. 8-126,

and amendments thereto, shall have the meanings respectively ascribed to them therein.

(b) As used in K.S.A. 8-197 through 8-199, and amendments thereto:

(1) (A) "Nonhighway vehicle" means:

(i) Any motor vehicle which cannot be registered because it is not manufactured for the purpose of using the same on the highways of this state and is not provided with the equipment required by state statute for vehicles of such type which are used on the highways of this state;

(ii) any motor vehicle, other than a salvage vehicle, for which the owner has not provided motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto, and has not applied for or obtained registration of such motor vehicle in accordance with article 1 of chapter 8 of the Kansas Statutes Annotated;

(iii) any all-terrain vehicle;

(iv) any work-site utility vehicle;

(v) any micro utility truck; or

(vi) recreational off-highway vehicle;

(B) "nonhighway vehicle" shall not include an implement of husbandry, as defined in K.S.A. 8-126, and amendments thereto.

(2) "Salvage vehicle" means:

(A) Any motor vehicle, other than a late model vehicle, which is of a type required to be registered in this state, but which cannot be registered because it has been wrecked or damaged to the extent that: The equipment required by state statute on any such vehicle used on the highways of this state is not present or is not in good condition or proper adjustment, as prescribed by state statute or any rules and regulations adopted pursuant thereto, or such vehicle is in an inoperable condition or a condition that would render the operation thereof on the highways of this state a hazard to the public safety; and in either event, such vehicle would require substantial repairs to rebuild or restore such vehicle to a condition which will permit the registration thereof;

(B) a late model vehicle which is of a type required to be registered in this state and which has been wrecked or damaged to the extent that the total cost of repair is 75% or more of the fair market value of the motor vehicle immediately preceding the time it was wrecked or damaged and such condition was not merely exterior cosmetic damage to such vehicle as a result of windstorm or hail; or

(C) a motor vehicle, which is of a type required to be registered in this state that the insurer determines is a total loss and for which the insurer takes title;

(3) "salvage title" means a certificate of title issued by the division designating a motor vehicle a salvage vehicle;

(4) "rebuilt salvage vehicle" means any motor vehicle previously issued a salvage title;

(5) "rebuilt salvage title" means a certificate of title issued by the division for a vehicle previously designated a salvage vehicle which is now designated a rebuilt salvage vehicle;

(6) "late model vehicle" means any motor vehicle which has a manufacturer's model year designation of or later than the year in which the vehicle was wrecked or damaged or any of the six preceding years;

(7) "fair market value" means the retail value of a motor vehicle as:

(A) Set forth in a current edition of any nationally recognized compilation, including an automated database of retail value; or

(B) determined pursuant to a market survey of comparable vehicles with regard to condition and equipment;

(8) "cost of repairs" means the estimated or actual retail cost of parts needed to repair a vehicle plus the cost of labor computed by using the hourly labor rate and time allocations for automobile repairs that are customary and reasonable. Retail costs of parts and labor rates may be based upon collision estimating manuals or electronic computer estimating systems customarily used in the automobile industry. The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing or reinstalling tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle.

8-198. Nonhighway and salvage vehicles exempt from registration; nonhighway certificates of title and salvage titles; permit for temporary operation; rebuilt or restored salvage vehicle; rebuilt salvage title; notice attached to rebuilt vehicle; penalties; all-terrain vehicles; work-site utility vehicles; no-fault insurance law inapplicable, exception.

(a) A nonhighway or salvage vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135, and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142, and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle or salvage vehicle, the purchaser thereof shall obtain a nonhighway certificate of title or salvage title, whichever is applicable, in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135, and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title or a salvage title, whichever is applicable, to the purchaser of such nonhighway vehicle or salvage vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135, and amendments thereto, for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title or salvage title, as provided in subsection (c) or (d).

(2) Except as provided in subsection (b) of K.S.A. 8-199, and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135, and amendments thereto, the owner of such nonhighway vehicle or salvage vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle or salvage vehicle. Upon receipt of the nonhighway certificate of title, salvage title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, and a certificate of title has not been issued for the vehicle under

this section or a certificate of title was not required under K.S.A. 8-135, and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title or salvage title, whichever is applicable, as provided in this section, except that in addition thereto, the division shall require a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle or salvage vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title or salvage title, whichever is applicable, for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title or salvage title, whichever is applicable, as provided in subsection (c) or (d).

(c) Every purchaser of a nonhighway vehicle, whether assigned a nonhighway certificate of title or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new nonhighway certificate of title in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c) (1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title is made is a nonhighway vehicle and other provisions the director deems necessary. Each application for a nonhighway certificate of title shall be accompanied by a fee of $10, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of $2.

(d) (1) Except as otherwise provided by this section, the owner of a vehicle that meets the definition of a salvage vehicle shall apply for a salvage title before the ownership of the motor vehicle is transferred. In no event shall such application be made more than 60 days after the vehicle is determined to be a salvage vehicle.

(2) Every insurance company, which pursuant to a damage settlement, acquires ownership of a vehicle that has incurred damage requiring the vehicle to be designated a salvage vehicle, shall apply for a salvage title within 60 days after the title is assigned and delivered by the owner to the insurance company, with all liens released.

(3) Every insurance company which makes a damage settlement for a vehicle that has incurred damage requiring such vehicle to be designated a salvage vehicle, but does not acquire ownership of the vehicle, shall notify the vehicle owner of the owner's obligation to apply for a salvage title for the motor vehicle, and shall notify the division of this fact in accordance with procedures established by the division. The vehicle owner shall apply for a salvage title within 60 days after being notified by the insurance company.

(4) The lessee of any vehicle which incurs damage requiring the vehicle to be designated a salvage vehicle shall notify the lessor of this fact within 30 days of the determination that the vehicle is a salvage vehicle.

(5) The lessor of any motor vehicle which has incurred damage requiring the vehicle to be titled as a salvage vehicle shall apply for a salvage title within 60 days after being notified of this fact by the lessee.

(6) Every person acquiring ownership of a motor vehicle that meets the definition of a salvage vehicle, for which a salvage title has not been issued, shall

apply for the required document prior to any further transfer of such vehicle, but in no event, more than 60 days after ownership is acquired.

(7) Every purchaser of a salvage vehicle, whether assigned a salvage title or a regular certificate of title with the form specified in paragraph (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new salvage title, in the same manner and under the same condition as for an application for a certificate of title under K.S.A. 8-135, and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c) (1) of K.S.A. 8-135, and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for salvage title is made is a salvage vehicle, and other provisions the director deems necessary. Each application for a salvage title shall be accompanied by a fee of $10 and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135, and amendments thereto, for making application for a certificate of title thereunder, an additional fee of $2.

(8) Failure to apply for a salvage title as provided by this subsection shall be a class C nonperson misdemeanor.

(e) A nonhighway certificate of title or salvage title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title or salvage title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle or salvage vehicle, whichever is applicable. A nonhighway certificate of title or salvage title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135, and amendments thereto, and other information the director deems necessary.

(f) (1) A nonhighway certificate of title or salvage title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135, and amendments thereto, for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title or salvage title may be assigned and transferred only while the vehicle remains a nonhighway vehicle or salvage vehicle.

(2) Upon transfer or sale of a nonhighway vehicle in a condition which will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135 and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has been issued a nonhighway certificate of title until there has been compliance with K.S.A. 8-116a, and amendments thereto.

(3) (A) Upon transfer or sale of a salvage vehicle which has been rebuilt or restored or is otherwise in a condition which will allow the registration of such vehicle, the owner shall assign the salvage title to the purchaser, and the purchaser shall obtain a rebuilt salvage title and register such vehicle as provided in K.S.A. 8-135, and amendments thereto. No rebuilt salvage title shall be issued for a vehicle for which there has been issued a salvage title until there has been compliance with K.S.A. 8-116a, and amendments thereto, and the notice required in paragraph (3)(B) of this subsection has been attached to such vehicle.

(B) As part of the inspection for a rebuilt salvage title conducted under K.S.A. 8-116a, and amendments thereto, the Kansas highway patrol shall attach a notice affixed to the left door frame of the rebuilt salvage vehicle

indicating the vehicle identification number of such vehicle and that such vehicle is a rebuilt salvage vehicle. In addition to any fee allowed under K.S.A. 8-116a, and amendments thereto, a fee of $5 shall be collected from the owner of such vehicle requesting the inspection for the notice required under this paragraph. All moneys received under this paragraph shall be remitted in accordance with subsection (e) of K.S.A. 8-116a, and amendments thereto.

(C) Failure to apply for a rebuilt salvage title as provided by this paragraph shall be a class C nonperson misdemeanor.

(g) The owner of a salvage vehicle which has been issued a salvage title and has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such salvage vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104, and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103, and amendments thereto, and the policy number or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance, a statement attesting to the correctness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. Permits issued under this subsection (g) shall be prepared in triplicate. One copy shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The second copy shall be retained by the county treasurer, and the third copy shall be forwarded by the county treasurer to the division of vehicles. The fee for such permit shall be $1 which shall be retained by the county treasurer, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits.

(h) A nonhighway vehicle or salvage vehicle for which a nonhighway certificate of title or salvage title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 to 40-3121, inclusive, and amendments thereto, except when such vehicle is being operated pursuant to subsection (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

(i) Any person who, on July 1, 1996, is the owner of an all-terrain vehicle, as defined in K.S.A. 8-126, and amendments thereto, shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such all-terrain vehicle, unless the person transfers an interest in such all-terrain vehicle.

(j) Any person who, on July 1, 2006, is the owner of a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto shall not be required to file an application for a nonhighway certificate of title under the provisions of this section for such work-site utility vehicle, unless the person transfers an interest in such work-site utility vehicle.

8-199. Unlawful acts; violations classified; sales tax act unaffected.

(a) Except as provided in subsection (b), it shall be unlawful for any person to sell or transfer the ownership of any nonhighway vehicle or salvage vehicle, unless such person shall give to the purchaser thereof an assigned nonhighway certificate of title or salvage

title.

(b) The sale or transfer of ownership of a nonhighway vehicle or salvage vehicle shall include the acquisition of any such vehicle by an insurer, as defined by K.S.A. 40-3103, and amendments thereto, from any person upon payment of consideration therefor in satisfaction of such insurer's obligation under a policy of motor vehicle insurance but the transferor of a vehicle for which a title has been issued under K.S.A. 8-135, and amendments thereto, shall not be required to obtain a nonhighway certificate of title or salvage title for such vehicle and may assign to the insurer the certificate of title issued pursuant to K.S.A. 8-135, and amendments thereto. It shall be unlawful for any insurer to sell or attempt to sell any nonhighway vehicle or salvage vehicle, through power of attorney or otherwise, unless such insurer shall obtain a nonhighway certificate of title or salvage title issued in the name of the insurer.

(c) Any person, firm, company, corporation, partnership, association or other legal entity who violates the provisions of this section shall be guilty of a class C misdemeanor.

(d) Nothing in this act shall be construed as relieving any person of the payment of the tax imposed on the sale of a motor vehicle pursuant to K.S.A. 79-3603, and amendments thereto.

8-2401. Definitions. As used in this act, the following words and phrases shall have the meanings:

(a) "Vehicle dealer" means any person who:

(1) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or

(2) for commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined in (bb); but does not include:

(A) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles;

(B) public officers while performing their official duties;

(C) employees of persons enumerated in provisions (A) and (B), when engaged in the specific performance of their duties as such employees;

(D) auctioneers conducting auctions for persons enumerated in provisions (A), (B) or (C); or

(E) auctioneers who, while engaged in conducting an auction of tangible personal property for others, offer for sale:

(i) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars;

(ii) vehicles which meet the statutory definition of antique vehicles; or

(iii) vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (E), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by

K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale.

(b) “New vehicle dealer" means any vehicle dealer who is a party to an agreement, with a first or second stage manufacturer or distributor, which agreement authorizes the vehicle dealer to sell, exchange or transfer new motor vehicles, trucks, motorcycles, or trailers or parts and accessories made or sold by such first or second stage manufacturer or distributor and obligates the vehicle dealer to fulfill the warranty commitments of such first or second stage manufacturer or distributor.

(c) "Used vehicle dealer" means any person actively engaged in the business of buying, selling or exchanging used vehicles.

(d) "Vehicle salesperson" means any person who is employed as a salesperson by a vehicle dealer to sell vehicles.

(e) "Board" means the vehicle dealer review board created by this act.

(f) "Director" means the director of vehicles, or a designee of the director.

(g) "Division" means the division of vehicles of the department of revenue.

(h) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto, but shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms "manufactured home" and "mobile home" shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto.

(i) "Motor vehicle" means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto.

(j) "Licensor" means the director or division or both.

(k) "First stage manufacturer" means any person who manufactures, assembles and sells new vehicles to new vehicle dealers for resale in this state.

(l) "Second stage manufacturer" means any person who assembles, installs or permanently affixes body, cab or special unit equipment to a chassis supplied by a first stage manufacturer, distributor or other supplier and sells the resulting new vehicles to new vehicle dealers for resale in this state.

(m) "First stage converter" means any person who is engaged in the business of affixing to a chassis supplied by a first stage manufacturer, distributor or other supplier, specially constructed body units to result in motor vehicles used as, but not limited to, buses, wreckers, cement trucks and trash compactors.

(n) "Second stage converter" means any person who is engaged in the business of adding to, subtracting from or modifying previously assembled or manufactured vehicles and sells the resulting converted vehicles at retail or wholesale.

(o) "Distributor" means any person who sells or distributes for resale new vehicles to new vehicle dealers in this state or who maintains distributor representatives in this state.

(p) "Wholesaler" means any person who purchases vehicles for the purpose of resale to a vehicle dealer.

(q) "Factory branch" means any branch office maintained in this state by a first or second stage manufacturer for the sale of new vehicles to distributors, or for the sale of new vehicles to new vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.

(r) "Distributor branch" means any branch office similar to subsection (q) maintained

by a distributor for the same purposes as a factory branch.

(s) "Factory representative" means a representative employed by a first or second stage manufacturer or factory branch for the purpose of making or promoting the sale of its new vehicles to new vehicle dealers, or for supervising or contacting its new vehicle dealers or prospective new vehicle dealers with respect to the promotion and sale of such vehicles and parts or accessories for the same.

(t) "Distributor representative" means any representative similar to subsection (s) employed by a distributor or distributor branch for the same purpose as a factory representative.

(u) "Person" means any natural person, partnership, firm, corporation or association.

(v) "New motor vehicle" means any motor vehicle which has never been titled or registered and has not been substantially driven or operated.

(w) "Franchise agreement" means any contract or franchise or any other terminology used to describe the contractual relationship between first or second stage manufacturers, distributors and vehicle dealers, by which:

(1) A right is granted one party to engage in the business of offering, selling or otherwise distributing goods or services under a marketing plan or system prescribed in substantial part by the other party, and in which there is a community of interest in the marketing of goods or services at wholesale or retail, by lease, agreement or otherwise; and

(2) the operation of the grantee's business pursuant to such agreement is substantially associated with the grantor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the grantor or an affiliate of the grantor.

(x) "Broker" means any person who, for a fee, commission, money, other thing of value, valuable consideration or benefit, either directly or indirectly, arranges or offers to arrange a transaction involving the sale of a vehicle, or is engaged in the business of:

(1) Selling or buying vehicles for other persons as an agent, middleman or negotiator; or

(2) bringing buyers and sellers of vehicles together, but such term shall not include any person registered as a salvage vehicle pool or any person engaged in a business in which the acts described in this subsection are only incidentally performed or which are performed or authorized within the requirements or scope of any other category of license, or not prohibited, in the manner authorized by the vehicle dealers' and manufacturers' licensing act.

(y) "Salvage vehicle dealer" means any person engaged in the business of buying, selling or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts.

(z) "Lending agency" means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a vehicle.

(aa) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensed business, except that a vehicle dealer who derives at least 50% of such person's income from operating a farm as a resident thereof, the established

place of business may be the farm residence of such vehicle dealer and the operable telephone may be located in such residence when such dealer engages only in vehicles and equipment not required to have vehicle registration to travel on a highway.

(bb) "Auction motor vehicle dealer" means any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder.

(cc) "Licensee" means any person issued a valid license pursuant to this act.

(dd) "Dealer" means a vehicle dealer as defined by this act, unless the context otherwise requires.

(ee) "Insurance company" means any person desiring to be licensed under this act and engaged in the business of writing or servicing insurance related to vehicles.

(ff) "Supplemental place of business" means a business location other than that of the established place of business of the dealer which may be operated by the dealer on a continuous year-round basis and, for new vehicle dealers, is within the defined area of responsibility in their franchise agreement, and for all other dealers is within the same city or county where the established place of business of the dealer is operated.

(gg) "Salvage yard" means the place owned or leased and regularly occupied by a person, firm or corporation licensed under the provisions of this act for the principal purpose of engaging in the business of a salvage vehicle dealer. Salvage yard shall include the location where the:

(1) Products for sale are displayed and offered for sale;
(2) books and records required for the conduct of the business are maintained;
(3) records are kept in the normal daily business activity; and
(4) records are made available for inspection.

(hh) "Salvage vehicle pool" means any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles.

(ii) "Major component part" means any vehicle part including the front clip, rear clip, doors, frame, chassis, engine, transmission, transaxle, cab, bed and box bearing the public vehicle identification number or engine number, if manufactured prior to 1981; or any vehicle part bearing a derivative of such number.

(jj) "Recreational motor vehicle" means a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto.

(kk) "Vehicle crusher" means any person, other than a vehicle recycler or a scrap metal recycler, who engages in the business of flattening, crushing or otherwise processing nonrepairable vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush nonrepairable vehicles for a vehicle recycler or a scrap metal recycler.

(ll) "Vehicle recycler" means a person who engages in the business of acquiring, dismantling, removing parts from or destroying nonrepairable vehicles for the primary purpose of reselling the vehicle parts.

(mm) "Scrap metal recycler" means a person who engages in the business of shredding or otherwise processing nonrepairable vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for

sale for remelting purposes.

(nn) "Nonrepairable vehicle" means any motor vehicle which: (1) Has been damaged, destroyed, wrecked, burned or submerged in water to the extent that such motor vehicle is incapable of safe operation for use on roads or highways and has no resale value except as a source of parts or scrap only; or (2) the owner irreversibly designates as a source of parts or scrap.

(oo) "Rebuilder" means a person who is engaged in the business of rebuilding salvage vehicles, as defined in K.S.A. 8-196, and amendments thereto, and selling such rebuilt salvage vehicles.

8-2402. Declaration of public policy.

It is hereby declared to be the public policy of this state to provide for fair and impartial regulation of those persons engaged in manufacturing, distributing or selling of vehicles. The provisions of this act which are applicable to such activities shall be administered in such a manner as will continue to promote fair dealing and honesty in the vehicle industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or advantage. It is further declared to be the policy of this state to protect the public interest in the purchase and trade of vehicles, so as to insure protection against irresponsible vendors and dishonest or fraudulent sales practices and to assist, provide and secure a stable, efficient, enforceable and verifiable method for the distribution of vehicles to consumers in the state of Kansas and provide a system of tracking the flow of vehicles and their parts as well as preserving supporting services for consumers purchasing or otherwise acquiring vehicles.

8-2403. Vehicle dealers required to have licenses; exceptions; supervision by director of vehicles.

(a) No person shall engage in the business of a vehicle dealer unless such person has complied with the applicable provisions of this act. The director shall issue licenses provided for by this act and shall have supervision over the licensees hereunder in respect to all the provisions of this act.

(b) This act shall not apply to:

(1) Vehicle dealers or manufacturers dealing exclusively in farm trailers or utility or boat trailers having a gross weight of 2,000 pounds or less and which are not required by law to be registered; or

(2) charitable organizations, which are exempt from federal income taxation pursuant to section 501(c)(3) and are eligible recipients of charitable contributions pursuant to section 170(c)(2) of the federal internal revenue code, selling motor vehicles at a charitable auction.

8-2404. License required; license fees; bond required, when; place of business required, when; supplemental place of business; manual and examination for salesperson; prohibiting brokering of new and used motor vehicles; exceptions.

(a) No vehicle dealer shall engage in business in this state without obtaining a license as required by this act. Any vehicle dealer holding a valid license and acting as a vehicle salesperson shall not be required to secure a salesperson's license.

(b) No first stage manufacturer, second stage manufacturer, factory branch, factory representative, distributor branch or distributor representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such

business.

(c) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The director may require in the application, or otherwise, information relating to the applicant's solvency, financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to salespersons, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal of a sales agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director. Applications for renewals, except for renewals of licenses issued to salespersons, received by the director after February 15 shall be considered as new applications. All salespersons' licenses issued on or after January 1, 1987, shall expire on June 30, 1988, and thereafter shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salespersons' licenses received by the director after July 15 shall be considered as new applications. All licenses for supplemental places of business existing or issued on or after January 1, 1994, shall expire on December 31, 1994, unless previously expired, suspended or revoked, and shall thereafter expire on December 31 of the calendar year for which they are granted, unless previously suspended or revoked.

(e) License fees for each calendar year, or any part thereof shall be as follows:

(1) For new vehicle dealers, $75;
(2) for distributors, $75;
(3) for wholesalers, $75;
(4) for distributor branches, $75;
(5) for used vehicle dealers, $75;
(6) for first and second stage manufacturers, $225 plus $75 for each factory branch in this state;
(7) for factory representatives, $50;
(8) for distributor representatives, $50;
(9) for brokers, $75;
(10) for lending agencies, $50;
(11) for first and second stage converters, $50;
(12) for salvage vehicle dealers, $75;
(13) for auction motor vehicle dealers, $75;
(14) for vehicle salesperson, $25;
(15) for insurance companies, $75;
(16) for vehicle crusher, $75;
(17) for vehicle recycler, $75;
(18) for scrap metal recycler, $75;
(19) for rebuilders, $75; and

(20) for salvage vehicle pool, $75.

Any new vehicle dealer who is also licensed as a used vehicle dealer shall be required to pay only one $75 fee for both licenses.

(f) Dealers may establish approved supplemental places of business within the same county of their licensure or, with respect to new vehicle dealers, within their area of responsibility as defined in their franchise agreement. Those doing so shall be required to pay a supplemental license fee of $35. In addition to any other requirements, new vehicle dealers seeking to establish supplemental places of business shall also comply with the provisions of K.S.A. 8-2430 through 8-2432, and amendments thereto. A new vehicle dealer establishing a supplemental place of business in a county other than such dealer's county of licensure but within such dealer's area of responsibility as defined in such dealer's franchise agreement shall be licensed only to do business as a new motor vehicle dealer in new motor vehicles at such supplemental place of business. Original inspections by the division of a proposed established place of business shall be made at no charge except that a $30 fee shall be charged by the division for each additional inspection the division must make of such premises in order to approve the same.

(g) The license of all persons licensed under the provisions of this act shall state the address of the established place of business, office, branch or supplemental place of business and must be conspicuously displayed therein. The director shall endorse a change of address on a license without charge if:

(1) The change of address of an established place of business, office, branch or supplemental place of business is within the same county; or

(2) the change of address of a supplemental place of business, with respect to a new vehicle dealer, is within such dealer's area of responsibility as defined in their franchise agreement. A change of address of the established place of business, office or branch to a different county shall require a new license and payment of the required fees but such new license and fees shall not be required for a change of address of a supplemental place of business, with respect to a new vehicle dealer, to a different county but within the dealer's area of responsibility as defined in their franchise agreement.

(h) Every salesperson, factory representative or distributor representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a vehicle salesperson shall be mailed or otherwise delivered by the division to the employer of the salesperson for public display in the employer's established place of business. When a salesperson ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesperson, factory representative or distributor representative who terminates employment with one employer may file an application with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a $12 transfer fee. A salesperson, factory representative or distributor representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approves, but such amount shall be not less than $5,000 nor more than $20,000, conditioned upon the applicant or licensee complying with the

provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every applicant or licensee who is or applies to be a used vehicle dealer or a new vehicle dealer shall furnish and maintain a bond in such form, amount and with such sureties as the director approves, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by a retail or wholesale buyer or seller of a vehicle by reason of any act by the licensee in violation of any act which constitutes grounds for suspension or revocation of the license. The amount of such bond shall be as follows:

(1) For any new applicant $30,000; or

(2) for any current licensee, $15,000, until the renewal date of the existing bond, then $30,000, except that on and after January 1, 2003, the amount of such bond shall be $30,000. To comply with this subsection, every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Bonding requirements shall not apply to first or second stage manufacturers, factory branches, factory representatives or salespersons. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A. 8-2411, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (j), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act (K.S.A. 77-501 through 77-549, and amendments thereto,) and the Kansas judicial review act (K.S.A. 77-601 through 77-627, and amendments thereto). Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. On or after January 1, 2003, the amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of no less than $30,000. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (i), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit

a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the motor vehicle which was the subject of the last motor vehicle sales transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

(k) No license shall be issued by the director to any person to act as a new or used dealer, wholesaler, broker, salvage vehicle dealer, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool, second stage manufacturer, first stage converter, second stage converter or distributor unless the applicant for the vehicle dealer's license maintains an established place of business which has been inspected and approved by the division. First stage manufacturers, factory branches, factory representatives, distributor branches, distributor representatives and lending agencies are not required to maintain an established place of business to be issued a license.

(l) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space to display vehicles at least equal in number to the number of dealer license plates the dealer has had assigned.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every vehicle dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of this act may be used by a dealer to conduct more than one business, provided that suitable space and facilities exist therein to properly conduct the business of a vehicle dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the supplemental place of business.

(q) Any vehicle dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new vehicles in this state must satisfactorily demonstrate to the director that such vehicle dealer has a bona fide franchise agreement with the first or second stage manufacturer or distributor of the vehicle, to sell, exchange or transfer the same or to cause to be sold, exchanged or transferred.

No person may engage in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for the make or makes of new motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging new motor vehicles, either directly or indirectly, includes:

(1) Displaying new motor vehicles on a lot or showroom;

(2) advertising new motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in

their own names; or

(3) regularly or actively soliciting or referring buyers for new motor vehicles.

(r) No person may engage in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, unless such person holds a license issued by the director for used motor vehicles being bought, sold or exchanged, or unless a person engaged in such activities is not required to be licensed or acts as an employee of a licensee and such acts are only incidentally performed. For the purposes of this section, engaged in the business of buying, selling or exchanging used motor vehicles, either directly or indirectly, includes:

(1) Displaying used motor vehicles on a lot or showroom;

(2) advertising used motor vehicles, unless the person's business primarily includes the business of broadcasting, printing, publishing or advertising for others in their own names; or

(3) regularly or actively soliciting buyers for used motor vehicles.

(s) The director of vehicles shall publish a suitable Kansas vehicle salesperson's manual. Before a vehicle salesperson's license is issued, the applicant for an original license or renewal thereof shall be required to pass a written examination based upon information in the manual.

(t) No new license shall be issued nor any license renewed to any person to act as a salvage vehicle dealer until the division has received evidence of compliance with the junkyard and salvage control act as set forth in K.S.A. 68-2201 et seq., and amendments thereto.

(u) On and after the effective date of this act, no person shall act as a broker in the advertising, buying or selling of any new or used motor vehicle. Nothing herein shall be construed to prohibit a person duly licensed under the requirements of this act from acting as a broker in buying or selling a recreational vehicle as defined by subsection (f) of K.S.A. 75-1212, and amendments thereto, when the recreational vehicle subject to sale or purchase is a used recreational vehicle which has been previously titled and independently owned by another person for a period of 45 days or more, or is a new or used recreational vehicle repossessed by a creditor holding security in such vehicle.

(v) Nothing herein shall be construed to prohibit a person not otherwise required to be licensed under this act from selling such person's own vehicle as an isolated and occasional sale.

8-2405. Insurance required of dealers; limitations on cancellation.

No dealer's license shall be issued or renewed unless the applicant or holder of the license shall have on file with the division an approved insurance policy, issued by an insurance carrier authorized to transact business within the state of Kansas. The term of the policy shall be continuous and shall remain in full force and effect until canceled under proper notice. All policies must be issued in the name of the holder or applicant for the vehicle dealer's license and shall provide public liability and property damage insurance for the operation of any vehicle by prospective purchasers, owned or being offered for sale by the dealer when being operated by the owner or seller, the seller's agent, servants, employees, prospective customers or other persons. The limits of liability shall correspond to the amount required by law in this state for bodily injury or death of any one person, bodily injury or death in any one accident and property damage. Such insurance may not be cancelled unless 30 days' notice by the insurance carrier has been given in writing to the director. Upon the effective date of cancellation of any insurance policy required under this section, the license to engage in

business as a dealer shall be void.

8-2406. Dealer plates; fee; symbols on plates; use of plates.

(a) The annual fee for the first dealer license plate is $275, and the annual fee for additional dealer license plates shall be an amount equal to the amount required to register a passenger vehicle having a gross weight of less than 4,500 pounds, except that the annual fee for dealer license plates used by trailer dealers on trailers which they have purchased or own and are holding for resale shall be $25 for each plate. To determine the number of dealer license plates the dealer needs, the director may base the decision on the dealer's past sales, inventory and any other pertinent factors as the director may determine. After the end of the first year of licensure as a dealer, not more than one dealer license plate shall be issued to any dealer who has not reported to the division the sale of at least five motor vehicles in the preceding year. There shall be no refund of fees for dealer license plates in the event of suspension, revocation or voluntary cancellation of a license. The director is hereby authorized to designate by identifying symbols on a dealer's license plate the type of dealer's license that the person has been issued. If a dealer has an established place of business in more than one county, such dealer shall secure a separate and distinct dealer's license and dealer license plates for each established place of business.

(b) New motor vehicle dealers and used motor vehicle dealers may authorize use of dealer license plates assigned to such motor vehicle dealers as follows:

(1) The licensed motor vehicle dealer and such dealer's spouse;

(2) the sales manager and all other sales personnel when such manager and sales personnel are properly licensed in Kansas, except that no dealer license plate shall be assigned to sales personnel who are working at the established place of business of the dealer less than 20 hours per week;

(3) any employee of such motor vehicle dealer when the use thereof is directly connected to a particular business transaction of such motor vehicle dealer;

(4) the customer when operating a motor vehicle in connection with negotiations to purchase such motor vehicle or during a demonstration of such motor vehicle;

(5) any school district and any accredited nonpublic school which has entered into an agreement with a dealer to use a motor vehicle as a driver training motor vehicle, as defined in K.S.A. 72-5015 and amendments thereto, in an approved driver training course.

(c) A wholesaler dealer may authorize the use of dealer license plates on vehicles purchased by the wholesaler for resale to a retail vehicle dealer as follows:

(1) To transport or operate a vehicle to or from a licensed retail or wholesale vehicle dealer for the purpose of buying, selling, or offering or attempting to negotiate a sale of the vehicle to a licensed vehicle dealer;

(2) to deliver a vehicle purchased from the wholesale vehicle dealer to a purchasing vehicle dealer.

(d) Salvage vehicle dealers may use dealer license plates only on vehicles which they have purchased for salvage, including dismantling, disassembling or recycling.

(e) Insurance companies may use dealer license plates only on vehicles purchased or acquired for salvage in the course of business of the insurance company.

(f) Lending agencies may use dealer license plates only on vehicles which they have repossessed or are holding for disposition due to repossession.

(g) Trailer dealers may use dealer license plates only on trailers which they have purchased or own and are holding for resale.

(h) Brokers are not entitled to be assigned or to use any dealer license plates.

(i) Except as provided above, dealer license plates shall be used only in accordance with the provisions of K.S.A. 8-136 and amendments thereto. This subsection (i) does not apply to K.S.A. 8-2425, and amendments thereto, or full-privilege license plates or dealer-hauler full-privilege trailer license plates issued thereunder.

8-2408. Dealer requirements; reports; records, availability for inspection; disposition of business; exceptions.

Except as hereinafter provided, every person licensed as a dealer under provisions of this act shall:

(a) On or before the 20th day of each month, file a monthly report, on a form prescribed and furnished by the division of vehicles, listing all sales or transfers, except sales or transfers by a first or second stage manufacturer to a vehicle dealer of new or used vehicles, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vehicle, and such other information as the division may require.

(b) Salvage vehicle dealers, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler and salvage vehicle pool shall, in addition to their monthly sales report for used vehicles, if applicable, on or before the 20th day of each month file a monthly report on a form prescribed and furnished by the division, listing all vehicles for which the major component part containing the vehicle identification number or engine number if manufactured prior to 1981, has been disposed of or sold. The certificate of title or transfer certificate for all vehicles listed must accompany the monthly report.

(c) Make available during regular business hours to any employee of the division or any member of law enforcement for the purpose of investigation or inspection, all records concerning vehicles purchased, sold or exchanged during the preceding 12 months, including certificates of title on all vehicles owned by the dealership, except those titles surrendered pursuant to subsection (b).

(d) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the division and return the dealer's license and dealer plates, and the division upon receipt of such notice and plates shall cancel the dealer's license, except that such dealer may, upon payment of 50% of the annual fee to the division, have the license and dealer plates assigned to the purchaser of the business.

(e) In addition to the requirements of subsection (a), any dealer paying a commission or fee to a broker shall report to the division, on the monthly sales report, the name of the broker and the broker's license number.

(f) Dealers, licensed as brokers must in addition to the requirements of subsection (a) include on the monthly sales reports, the name of the seller, the transferor or dealer that owns the vehicle and whether the seller or the purchaser paid the broker's fee or commission.

(g) Lending agencies licensed under this act, which sell two or less repossessed vehicles a month, shall not be required to file the monthly reports under subsection (a), except that such lending agencies shall report annually, on a form prescribed and furnished by the division, the total number of sales or transfers of such vehicles.

8-2409. Temporary vehicle registration permits; cost; display; operation under laden conditions.

(a) Any dealer may purchase from the division of vehicles sixty-day temporary registration permits, valid for 60 days at a cost of $3 each. Such dealer shall have completed

the application and permit as required by the division. Such registration shall not extend the date when registration fees are due, but shall be valid registration for a period of 60 days from date of issuance. The dealer upon presentation of evidence of ownership in the applicant and evidence that the sales tax has been paid, if due, shall issue a sticker or paper registration as determined by the division. No dealer, or county treasurer, as authorized by K.S.A. 8-143, and amendments thereto, shall issue more than one sixty-day temporary registration permit to the purchaser of a vehicle.

(b) The division of vehicles may deny any dealer the authority to purchase sixty-day temporary permits if the vehicle dealer is delinquent in monthly sales reports to the division for two months or more or if the vehicle dealer is found to have issued more than one sixty-day permit to the purchaser of a vehicle.

(c) The temporary registration authorized by this section shall entitle a truck, truck tractor or any combination of truck or truck tractor and any type of trailer or semitrailer to be operated under laden conditions.

8-2410. Denial, suspension or revocation of license; grounds; notice and hearing; licensee responsibility for agents; appeals; prohibited acts.

(a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

(1) Proof of financial unfitness of the applicant;

(2) material false statement in an application for a license;

(3) filing a materially false or fraudulent tax return as certified by the director of taxation;

(4) negligently failing to comply with any applicable provision of this act or any applicable rule or regulation adopted pursuant thereto;

(5) knowingly defrauding any retail buyer to the buyer's damage;

(6) negligently failing to perform any written agreement with any buyer;

(7) failure or refusal to furnish and keep in force any required bond;

(8) knowingly making a fraudulent sale or transaction;

(9) knowingly engaging in false or misleading advertising;

(10) willful misrepresentation, circumvention or concealment, through a subterfuge or device, of any material particulars, or the nature thereof, required by law to be stated or furnished to the retail buyer;

(11) negligent use of fraudulent devices, methods or practices in contravention of law with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(12) knowingly violating any law relating to the sale, distribution or financing of vehicles;

(13) being a first or second stage manufacturer of vehicles, factory branch, distributor, distributor or factory representative, officer, agent or any representative thereof, who has:

(A) Required any new vehicle dealer to order or accept delivery of any new motor vehicle, part or accessory of such part, equipment or any other commodity not required by law, or not necessary for the repair or service, or both, of a new motor vehicle which was not ordered by the new vehicle dealer;

(B) unfairly, without due regard to the equities of the vehicle dealer, and without just provocation, canceled, terminated or failed to renew a franchise agreement with any new vehicle dealer; or

(C) induced, or has attempted to induce, by coercion, intimidation or discrimination, any vehicle dealer to involuntarily enter into any franchise agreement with such first or second stage manufacturer, factory branch, distributor, or any representative thereof, or to do any other act to a vehicle dealer which may be deemed a violation of this act, or the rules and regulations adopted or orders promulgated under authority of this act, by threatening to cancel or not renew a franchise agreement existing between such parties;

(14) being a first or second stage manufacturer, or distributor who for the protection of the buying public fails to specify in writing the delivery and preparation obligations of its vehicle dealers prior to delivery of new vehicles to new vehicle dealers. A copy of such writing shall be filed with the division by every licensed first or second stage manufacturer of vehicles and the contents thereof shall constitute the vehicle dealer's only responsibility for product liability as between the vehicle dealer and the first or second stage manufacturer. Any mechanical, body or parts defects arising from any express or implied warranties of the first or second stage manufacturer shall constitute the product or warranty liability of the first or second stage manufacturer. The first or second stage manufacturer shall reasonably compensate any authorized vehicle dealer for the performance of delivery and preparation obligation;

(15) being a first or second stage manufacturer of new vehicles, factory branch or distributor who fails to supply a new vehicle dealer with a reasonable quantity of new vehicles, parts and accessories, in accordance with the franchise agreement. It shall not be deemed a violation of this act if such failure is attributable to factors reasonably beyond the control of such first or second stage manufacturer, factory branch or distributor;

(16) knowingly used or permitted the use of dealer plates contrary to law;

(17) has failed or refused to permit an agent of the division, during the licensee's regular business hours, to examine or inspect such dealer's records pertaining to titles and purchase and sale of vehicles;

(18) has failed to notify the division within 10 days of dealer's plates that have been lost, stolen, mutilated or destroyed;

(19) has failed or refused to surrender their dealer's license or dealer's plates to the division or its agent upon demand;

(20) has demonstrated that such person is not of good character and reputation in the community in which the dealer resides;

(21) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a dealer or salesperson;

(22) has cross-titled a title to any purchaser of any vehicle. Cross-titling shall include, but not by way of limitation, a dealer or broker or the authorized agent of either selling or causing to be sold, exchanged or transferred any vehicle and not showing a complete chain of title on the papers necessary for the issuance of title for the purchaser. The selling dealer's name must appear on the assigned first or second stage manufacturer's certificate of origin or reassigned certificate of title;

(23) has changed the location of such person's established place of business or supplemental place of business prior to approval of such change by the division;

(24) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(25) doing business as a vehicle dealer other than at the dealer's established or supplemental place of business, with the exception that dealers selling new recreational vehicles may engage in business at other than their established or supplemental place of business for a period not to exceed 15 days;

(26) any violation of K.S.A. 8-126 et seq., and amendments thereto, in connection with such person's operation as a dealer;

(27) any violation of K.S.A. 8-116, and amendments thereto;

(28) any violation of K.S.A. 2012 Supp. 21-5835, and amendments thereto;

(29) any violation of K.S.A. 79-1019, 79-3294 et seq., or 79-3601 et seq., and amendments thereto;

(30) failure to provide adequate proof of ownership for motor vehicles in the dealer's possession;

(31) being a first or second stage manufacturer who fails to provide the director of property valuation all information necessary for vehicle identification number identification and determination of vehicle classification at least 90 days prior to release for sale of any new make, model or series of vehicles; or

(32) displaying motor vehicles at a location other than at the dealer's established place of business or supplemental place of business without obtaining the authorization required in K.S.A. 8-2435, and amendments thereto.

(b) In addition to the provisions of subsection (a), and notwithstanding the terms and conditions of any franchise agreement, including any policy, bulletin, practice or guideline with respect thereto or performance thereunder, no first or second stage manufacturer of vehicles, factory branch, distributor, distributor or factory representative, officer or agent or any representative thereof, or any other person may do or cause to be done any of the following acts or practices referenced in this subsection, all of which are also declared to be a violation of the vehicle dealers and manufacturers licensing act, and amendments thereto:

(1) Through the use of a written instrument or otherwise, unreasonably fail or refuse to offer to its same line-make new vehicle dealers all models manufactured for that line-make, or unreasonably require a dealer to:

(A) Pay any extra fee;

(B) purchase unreasonable advertising displays or other materials; or

(C) remodel, renovate or recondition the dealer's existing facilities as a prerequisite to receiving a model or series of vehicles. The provisions of this subsection shall not apply to manufacturers of recreational vehicles;

(2) require a change in the capital structure of the new vehicle dealership, or the means by or through which the dealer finances the operation of the dealership, if the dealership at all times meets any reasonable capital standards determined by the manufacturer and in accordance with uniformly applied criteria;

(3) discriminate unreasonably among competing dealers of the same line-make in the sale of vehicles or availability of incentive programs or sales promotion plans or other similar programs, unless justified by obsolescence;

(4) unless required by subpoena or as otherwise compelled by law:

(A) Require a new vehicle dealer to release, convey or otherwise provide customer information if to do so is unlawful, or if the customer objects in writing to doing so, unless the information is necessary for the first or second stage manufacturer of vehicles, factory branch or distributor to meet its obligations to consumers or the new vehicle dealer, including vehicle recalls or other requirements imposed by state or federal law; or

(B) release to any unaffiliated third party any customer information

which has been provided by the dealer to the manufacturer;

(5) unless the parties have reached a voluntary agreement where separate and adequate consideration has been offered and accepted in exchange for altering or foregoing the following limitations, through the use of written instrument, or otherwise:

(A) Prohibit or prevent a dealer from acquiring, adding or maintaining a sales or service operation for another line-make at the same or expanded facility at which the dealership is located if the prohibition or prevention of such arrangements would be unreasonable in light of all existing circumstances including, but not limited to, debt exposure, cost, return on investment, the dealer's and manufacturer's business plans and other financial and economic conditions and considerations;

(B) require a dealer to establish or maintain exclusive facilities, personnel or display space if the imposition of the requirement would be unreasonable in light of all existing circumstances, including, but not limited to, debt exposure, cost, return on investment, the dealer's and manufacturer's business plans and other financial and economic conditions and considerations;

(C) to require a dealer to build or relocate and build new facilities, or make a material alteration, expansion or addition to any dealership facility, unless the requirement is reasonable in light of all existing conditions, including, but not limited to, debt exposure, cost, return on investment, the dealer's and manufacturer's business plans and other financial and economic conditions and considerations;

(6) through the use of written instrument, or otherwise, require, coerce or force a dealer to underutilize its facilities by requiring the dealer to exclude or remove operations for the display, sale or service of any vehicle for which the dealer has a franchise agreement, except that in light of all existing circumstances the dealer must comply with reasonable facilities requirements. The requirement for a dealer to meet reasonable facilities requirements shall not include any requirement that a dealer establish or maintain exclusive facilities.

In the event a dealer decides to add an additional franchise agreement to sell another line-make of new vehicles of a different first or second stage manufacturer or distributor from that currently sold in its existing facility, it shall be a rebuttable presumption that the decision to do so is reasonable. Any dealer adding a franchise agreement for an existing facility shall provide 60 days written notice of its intent to those other parties to franchise agreements it may have. The other party must respond to such notice within 60 days by requesting a hearing before the director in accordance with K.S.A. 8-2411, and amendments thereto. Consent shall be deemed to have been given approving the addition of the line-make if no hearing is timely requested. A party objecting to the addition shall have the burden to overcome such presumption by a preponderance of the evidence;

(7) (A) through the use of written instrument, or otherwise, directly or indirectly condition the awarding of a franchise agreement to a prospective dealer, the addition of a line-make or franchise agreement to an existing dealer, the renewal of a franchise agreement, the approval of a dealer or facility relocation, the acquisition of a franchise agreement or the approval of a sale or transfer of a franchise agreement or other arrangement on the willingness of a dealer or a prospective dealer to enter into a site control agreement or exclusive

use agreement as defined in this subsection;

(B) as used in this paragraph, "site control agreement" and "exclusive use agreement" include any agreement by or required by the first or second stage manufacturer of vehicles, factory branch or distributor ("manufacturer parties" in this paragraph) that has the effect of either:

(i) Requiring that the dealer establish or maintain exclusive dealership facilities in violation of the dealer and manufacturers licensing act;

(ii) restricting the ability of the dealer, or the ability of the dealer's lessor in the event the dealership facility is being leased, to transfer, sell, lease or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease or other similar agreement; or

(iii) which gives control of the premises to a designated party. "Site control agreement" and "exclusive use agreement" also include manufacturer parties restricting the ability of a dealer to transfer, sell or lease the dealership premises by right of first refusal to purchase or lease, option to purchase, or option to lease, except as otherwise allowed by K.S.A. 8-2416, and amendments thereto, except that voluntary agreements where separate and adequate consideration has been offered and accepted are excluded;

(8) through the use of written instrument, or otherwise, require adherence to a performance standard or standards which are not applied uniformly to other similarly situated dealers. In addition to any other requirements by law, the following shall apply:

(A) A performance standard, sales objective or program for measuring dealer performance that may have a material effect on a dealer, including the dealer's right to payment under any incentive or reimbursement program and the application of the standard, sales objective or program by a manufacturer, distributor or factory branch shall be fair, reasonable, equitable and based on accurate information;

(B) a dealer that claims that the application of a performance standard, sales objective or program for measuring dealership performance does not meet the standards listed in subparagraph (A) may request a hearing before the director pursuant to K.S.A. 8-2411, and amendments thereto; and

(C) a first or second stage manufacturer of vehicles, factory branch or distributor has the burden of proving by a preponderance of the evidence that the performance standard, sales objective or program for measuring dealership information complies with this subsection;

(9) in addition to any other provisions of law, a franchise agreement or other contract offered to a dealer by a first or second stage manufacturer of vehicles, factory branch or distributor may not contain any provision requiring a dealer to pay the attorney's fees of the first or second stage manufacturer of vehicles, factory branch or distributor related to disputes between the parties.

(c) The director may deny the application for the license within 30 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 applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(d) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its salespersons or representatives while acting as its agent.

(e) Any licensee or other person aggrieved by a final order of the director, may appeal to the district court as provided by the Kansas judicial review act.

(f) The revocation or suspension of a first or second stage manufacturer's or distributor's license may be limited to one or more municipalities or counties or any other defined trade area.

8-2411. Violations; hearing; penalties; appeals.

(a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than $50 nor more than $1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation, except that in addition to any civil penalty imposed pursuant to this subsection, the director shall suspend or revoke the license of any person who is found to have violated the provisions of K.S.A. 79-3601 et seq., and amendments thereto, by the failure to file returns and remit sales tax as required pursuant to K.S.A. 79-3607, and amendments thereto, or the provisions of K.S.A. 79-3294 et seq., and amendments thereto, by the failure to file returns and remit withholding tax as required pursuant to K.S.A. 79-3298, and amendments thereto, for three consecutive months.

(c) Any party aggrieved by the decision of the director may appeal the same to the district court in accordance with the provisions of the Kansas judicial review act.

8-2412. Dealer review board; membership; meetings; compensation and expenses; secretary; attachment to department of revenue.

(a) The governor shall appoint eight members to serve on the dealer review board with the individual terms of office for each appointee to run as follows: One new vehicle dealer, one used vehicle dealer and one salvage vehicle dealer, each to serve for three consecutive years; one new vehicle dealer, one used vehicle dealer, and two additional members both of whom shall be appointed from the public at large, each to serve for two consecutive years; and one representative of a first or second stage manufacturer to serve for a period of one year. Upon the expiration of their respective terms, board members shall be appointed by the governor to serve for three consecutive years.

(b) The board shall elect a chairperson from among its members. The chairperson shall serve for a period of one year. The board shall elect successors each subsequent year.

(c) Any proceeding conducted by the board shall be construed to be a meeting of the board under this section for each day the proceeding is conducted. To constitute a meeting of the board within the meaning of this section, a quorum of the board must be present and participating. Four members of the board shall constitute a quorum. All final orders shall be in writing and shall be signed by the chairperson and approved by the board.

(d) Members of the board attending meetings of such board shall be paid

compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. In no event shall any member be paid compensation or allowances for more than 15 days in any calendar year.

(e) Meetings of the board may be called by the director, the chairperson of the board or any three members of the board, after first giving notice, in writing, at least 10 days prior to such meeting. The notice of any meeting of the board shall state the time and place of such meeting which special meeting may be held at any place within the state of Kansas. Additionally, such notice of the meeting shall state the purpose thereof.

(f) The director of vehicles may either appoint or designate a secretary for the board. The secretary shall perform, among other things, the following duties: Prepare the agenda for the meetings of the board; prepare notice of all meetings and cause the same to be mailed to all board members; take minutes of all meetings of the board and thereafter cause copies thereof to be distributed to all board members; arrange for meeting places within the state of Kansas at the direction of the chairperson; prepare vouchers for each board member to submit for expense of attendance at meetings; and, such other duties as requested by the board.

(g) The board shall be attached to the department of revenue and shall be within the department of revenue as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of revenue. The division shall serve as the administrative and enforcement agency of the board in all respects and shall perform such services and duties as it may be legally called upon to perform. In the event the board fails to perform any of its official duties within the time prescribed herein, the division may perform such duties and certify its action to the board for review.

8-2413. Injunctions; jurisdiction of courts; mediation.

(a) Upon application of the board, the director or any person having any interest in the subject matter, the district courts of this state may enjoin any person from violating any of the provisions of this act or any order or rule and regulation issued or adopted pursuant thereto.

(b) Notwithstanding any other statute, law or rule of court, any first or second stage manufacturer or distributor or new vehicle dealer which has entered a franchise agreement with the other under which a dispute has arisen with respect to the conduct of business or the business relationship between the parties shall participate in the mediation of the dispute upon the request of any party to the matter. In the event mediation is requested, any time frame applicable for taking action under the dealers and manufacturers licensing act shall be deemed stayed or tolled, as the case may be until the mediation is completed. The mediation shall be nonbinding, unless the parties reach agreement resolving the dispute.

8-2414. Cancellation, termination or nonrenewal of franchise agreements between dealers and manufacturers or distributors; cause; hearing; burden of proof; compensation upon termination; effect of noncompliance by manufacturer or distributor.

(a) No franchise agreement entered into between a vehicle dealer and a first or second stage manufacturer or distributor may be cancelled, terminated or not renewed by the first or second stage manufacturer or distributor unless 90 days notice has been given to the vehicle dealer and the director, which notice must state in full the reasons and causes for the cancellation, termination or nonrenewal of such franchise agreement, except that in the event of a showing of fraud, insolvency or failure to perform in the ordinary course of business, a notice of not less than 15 days may be approved by the director, with notice thereof to such

vehicle dealer and upon written application by such first or second stage manufacturer or distributor. A notice required under this subsection shall be given by certified mail and the period of time given in the notice prior to cancellation, termination or nonrenewal shall be computed from the date of mailing thereof.

(b) A vehicle dealer, within a period of time equal to that provided for in the notice filed pursuant to subsection (a), may file a complaint with the director against a first or second stage manufacturer or distributor challenging the reasons and causes given for the proposed cancellation, termination or nonrenewal of the franchise agreement. Upon a complaint being filed, the director shall promptly set the matter for public hearing, in accordance with K.S.A. 8-2411, and amendments thereto, for the purpose of determining whether there has been a violation of K.S.A. 8-2410, and amendments thereto, or whether good cause exists for cancellation, termination or nonrenewal of the franchise agreement in accordance with the dealers and manufacturers licensing act. Notwithstanding the provisions of K.S.A. 8-2411, and amendments thereto, the hearing may be set for a time which is not less than the number of days provided in the notice given pursuant to subsection (a), from the date the director gives notice thereof.

(c) The franchise agreement shall remain in full force and effect pending the determination by the director of the issues involved as provided by this act. If the director determines that the first or second stage manufacturer or distributor is acting in violation of this act or that good cause does not exist for the proposed action, the director shall order for the franchise agreement to be kept in full force and effect.

(d) The burden of proof shall be on the first or second stage manufacturer or distributor to show by a preponderance of the evidence that it did not act arbitrarily or unreasonably and that good cause did exist for the proposed cancellation, termination or nonrenewal of the franchise agreement. The director shall order that the franchise agreement may be cancelled, terminated or not renewed if the director finds, after a hearing that the licensed vehicle dealer is acting in violation of this act or that the judgment of the first or second stage manufacturer or distributor is with good cause and the vehicle dealer's default is material.

(e) (1) In the event of cancellation, termination or nonrenewal of a franchise agreement, good cause as used in this section shall mean the failure of the new vehicle dealer to effectively carry out the performance provisions of the franchise agreement if all of the following have occurred:

(A) The new vehicle dealer was given notice by the first or second stage manufacturer or distributor of the failure prior to the notice of cancellation, termination or nonrenewal as required by subsection (a);

(B) the notification stated that the notice of failure of performance was provided pursuant to this article;

(C) the new vehicle dealer was afforded a reasonable opportunity to carry out the franchise agreement; and

(D) the failure continued for more than one year after the date notification was given.

(2) In the event of cancellation, termination or nonrenewal of a franchise agreement, good cause shall not exist where there has been a violation by the first or second stage manufacturer or distributor of K.S.A. 8-2410, and amendments thereto, or any other provision of the dealers and manufacturers licensing act. Additionally, notwithstanding any agreement, the following alone shall not constitute good cause for the termination, cancellation or nonrenewal of a franchise agreement:

(A) A change in ownership of the new vehicle dealer's dealership. This

subparagraph does not authorize any change in ownership which would have the effect of a sale or an assignment of the franchise agreement or a change in the principal management of the dealership without the first or second stage manufacturer's or distributor's prior written consent;

(B) the refusal of the new vehicle dealer to purchase or accept delivery of any new motor vehicles, parts, accessories or any other commodity or services not ordered by the new vehicle dealer;

(C) the fact that the new vehicle dealer owns, has an investment in, participates in the management of or holds a franchise agreement for the sale or service of another make or line of new motor vehicles, or that the new vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the first or second stage manufacturer or distributor;

(D) the fact that the new vehicle dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new vehicle dealer's spouse, son or daughter, except that the sale or transfer shall not have the effect of a sale or an assignment of the franchise agreement without the first or second stage manufacturer's or distributor's prior written consent or approved as allowed by K.S.A. 8-2416, and amendments thereto.

(f) (1) In event of cancellation, termination or nonrenewal of a franchise agreement, whether voluntary or involuntary, the first or second stage manufacturer or distributor shall pay the new vehicle dealer, at a minimum:

(A) Dealer net acquisition cost for any new, undamaged and unsold new motor vehicle inventory purchased from the first or second stage manufacturer or distributor within 12 months prior to the receipt of notice of termination, cancellation or nonrenewal, provided the new motor vehicle has less than 500 miles registered on the odometer, not including mileage incurred in delivery to the new vehicle dealer or in transporting the vehicle between dealers for sale or delivery, plus any cost to the new vehicle dealer for returning the vehicle inventory to the first or second stage manufacturer or distributor;

(B) the dealer price listed in the current list or catalog or, if unavailable, the list or catalog actually utilized within the 12 months previous to termination, cancellation or nonrenewal, as the case may be, for any new, unused and undamaged parts, supplies, and accessories acquired from a first or second stage manufacturer, or distributor, or a source approved or recommended by it, less applicable allowances specified in advance of dealer purchase, plus 5% of the catalog or list price, as the case may be, for the cost of packing and returning the parts, supplies and accessories to the first or second stage manufacturer or distributor. Parts, supplies or accessories which are reconditioned or subject to reconditioning or rebuilding or other return in the ordinary course of business which are considered to be core parts in the trade practice and usage of the industry shall be valued for payment purposes at their core value, the price listed in the catalog or list referenced above or the amount paid for expedited return of core parts, whichever is higher;

(C) fair market value for furnishings required to be purchased by the first or second stage manufacturer or distributor and signs which bear the trademark or trade name of the first or second stage manufacturer or distributor which were required or recommended to be purchased or leased from the first or second stage manufacturer or distributor, or their approved sources;

(D) dealer cost for special tools and equipment required to be purchased or leased by the first or second stage manufacturer or distributor within three years of the date of termination, cancellation or nonrenewal;

(E) dealer cost for computers and data processing systems which are in usable condition and were leased or purchased within three years of the date of termination, cancellation or nonrenewal of the franchise agreement up to an amount equal to the cost of meeting the minimum standards and requirements for the dealer to participate in promotional or incentive programs or perform the franchise agreement;

(F) the cost of transporting, handling, packing and loading of signs, special tools, equipment and furnishings.

(2) Upon termination, cancellation or nonrenewal of a franchise agreement by the first or second stage manufacturer or distributor, the first or second stage manufacturer or distributor shall also pay to the new vehicle dealer a sum equal to the current fair rental value of its established place of business for a period of one year from the effective date of termination, cancellation or nonrenewal, or the remainder of the lease, whichever is less. If the new vehicle dealer owns the dealership facilities, the first or second stage manufacturer or distributor shall pay the new vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for one year or until the facilities are leased or sold, whichever is less. The rental payment required under this subsection is only required to the extent that the established place of business was being used for activities under the franchise agreement and only to the extent such facilities were not leased for unrelated purposes. The first or second stage manufacturer or distributor shall not be required to make the payment set forth under this subsection if the basis of the cancellation, termination or nonrenewal of such franchise agreement under this act is due to conviction of the dealer of a felony or any crime involving moral turpitude, or if the dealer has been adjudged guilty of the violation of any law of any state or the United States in connection with such person's operation as a dealer.

(3) To the extent the franchise agreement provides for payment or reimbursement to the new vehicle dealer in excess of that specified in this section, the provisions of the franchise agreement shall control.

(4) The first or second stage manufacturer or distributor shall pay the new vehicle dealer the sums specified in this subsection within 90 days after the tender of the property, subject to the new vehicle dealer providing evidence of good and clear title upon return of the property to the first or second stage manufacturer or distributor.

(5) Nothing in this subsection shall preclude or prohibit the first or second stage manufacturer or distributor or vehicle dealer from agreeing to other terms for additional payment or reimbursement, except that such terms shall include, at a minimum, the payment or reimbursement requirements contained in this subsection.

(6) The provisions of this subsection shall not apply to voluntary termination by dealers of recreational vehicles or to where the new vehicle dealer has voluntarily terminated its franchise agreement in conjunction with the sale of the business.

(g) Failure of the first or second stage manufacturer or distributor to give proper notice or maintain the franchise agreement in full force and effect pending determination by the director pursuant to this act, or to abide by the final order of the director, shall be cause for the director to refuse to issue a license to a replacement vehicle dealer or to a dealership which would be conducting business in the same trade area and selling the same make of vehicles where the vehicle dealer in question was engaged in business.

8-2415. Correction of warranty defects; compensation to dealer; promotional allowances or incentive payments; claim for reimbursement from dealer.

(a) A first or second stage manufacturer or distributor shall pay reasonable compensation to any authorized new vehicle dealer who performs work to rectify warranty defects in the first or second stage manufacturer's or distributor's product.

(b) A first or second stage manufacturer or distributor shall pay any authorized new vehicle dealer all promotional allowances or other incentive payments submitted by the dealer as provided by the applicable provisions of such programs subject to the applicable requirements of this act.

(c) In the determination of what constitutes reasonable compensation for warranty work under this act, among the factors to be considered shall be: The rate or charge which the authorized vehicle dealer in good faith is charging other customers for the same type of service or repair work, the compensation being paid by other first or second stage manufacturers or distributors to their vehicle dealers for the same work or service, and the prevailing wage or labor rate being paid or charged by all vehicle dealers licensed to operate in the city or community in which said authorized vehicle dealer is doing business.

(d) A first or second stage manufacturer or distributor shall not require unreasonable proof to establish compensation under this section, nor act unreasonably to delay payments or adjustments in the rate or charge for particular warranty work, promotional allowances or other incentive payments as circumstances or changes may justify or require such adjustments. A claim for compensation shall not be divided or the amount to be reimbursed reduced if the new vehicle dealer has reasonably substantiated the claim. A new vehicle dealer's failure to comply with the specific requirements of processing a claim may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents reasonable documentation or other evidence to substantiate the claim. If the claim is for warranty work, whether or not it includes parts, repairs or services, then the amount of compensation for the claims shall not be reduced or disallowed on the grounds the dealer failed to submit the claim fewer than 60 days after the dealer completed the work underlying the claim.

(e) A claim made by a new motor vehicle dealer for compensation under this section shall be either approved or disapproved within 30 days after the claim is submitted to the first or second stage manufacturer or distributor in the manner and on the forms the first or second stage manufacturer or distributor reasonably prescribes. An approved claim shall be paid within 30 days after its approval. If a claim is not specifically disapproved in writing or by electronic transmission within 30 days after the date on which the first or second stage manufacturer or distributor receives it, the claim shall be considered to be approved and payment shall follow within 30 days. A first or second stage manufacturer or distributor retains the right to audit claims for warranty work for a period of one year after the date on which the claim is paid and to chargeback any amounts paid on claims that are false or unsubstantiated. A first or second stage manufacturer or distributor retains the right to audit claims for promotional allowances or other incentive payments submitted by the dealer for a period of one year after the date on which the claim is paid and to chargeback any amounts paid on claims that are false or unsubstantiated. If there is evidence of fraud, this subsection does not limit the right of the manufacturer to audit for longer periods and chargeback for any fraudulent claim, subject to the limitation period under paragraph (3) of subsection (a) of K.S.A. 60-513, and amendments thereto, in addition to any other available remedy. A claim for reimbursement by the first or second stage manufacturer or distributor of sums due following an audit must be presented to the dealer within 90 days of the audit of the item

subject to the claim. A first or second stage manufacturer or distributor may not setoff or otherwise take control over funds owned, or under the control of the new vehicle dealer, or which are in an account designated for the new vehicle dealer when such action is based upon the findings of an audit or other claim with respect thereto until a final decision is issued with respect to any challenge or appeal by either party of any such audit or claim. This section may be enforced pursuant to K.S.A. 8-2411, and amendments thereto.

8-2416. Sale, transfer or assignment of dealership, notice and limitations; disapproval procedure; duties of manufacturer or distributor; appointment of successor.

(a) A vehicle dealer shall not transfer, assign or sell a franchise agreement or interest in a dealership to another person unless the dealer first gives written notice to the first or second stage manufacturer or distributor of the dealer's decision to make such transfer, assignment or sale. The dealer shall provide the first or second stage manufacturer or distributor with any completed application forms and related information generally utilized by the first or second stage manufacturer or distributor to conduct its review of prospective new vehicle dealers, and a copy of all agreements regarding the proposed transfer, assignment or sale.

(b) The first or second stage manufacturer or distributor shall send a letter by certified mail to the dealer within 60 days of receipt of the information specified in subsection (a). The letter shall indicate any disapproval of the transfer, assignment or sale and shall specifically set forth the reasons for the disapproval. If the first or second stage manufacturer or distributor does not respond by letter within the 60-day period, its consent to the proposed transfer, assignment or sale is deemed to have been granted. A first or second stage manufacturer or distributor shall not arbitrarily or unreasonably withhold approval of the transfer, assignment or sale of a franchise agreement or an interest in a dealership. The first or second stage manufacturer or distributor may not approve or reject only a part of an agreement for the transfer, assignment or sale, but must accept or reject the whole agreement. If the first or second stage manufacturer or distributor rejects an agreement, it may indicate changes to the agreement which would cause it to accept the proposed agreement. An agreement may not be rejected merely because it provides provisions which operate in the future, an option to undertake or refrain from an action, or because it is to operate over an extended period of time or as an installment agreement.

(c) Within 90 days after receipt of a notice of disapproval as provided in subsection (b), the new vehicle dealer may file a complaint with the director with respect to the first or second stage manufacturer or distributor's failure to approve the proposed transfer, assignment or sale. When such a complaint has been filed, the director shall inform the first or second stage manufacturer or distributor that a timely complaint has been filed and a hearing is required in accordance with the provisions of K.S.A. 8-2411, and amendments thereto, to determine whether good cause exists to disapprove the transfer, assignment or sale. A disapproval shall not be final until the director or the director's designee makes a final determination as to good cause.

(d) A first or second stage manufacturer or distributor shall not fail or refuse to approve the transfer, assignment or sale of the business and assets of a new vehicle dealer, or refuse to continue the franchise agreement with the prospective transferee after the holding of a hearing on the complaint if the director or the director's designee determines that good cause does not exist for the first or second stage manufacturer or distributor to fail or refuse to approve such transfer, assignment or sale. The burden of proof shall be on the first or second stage manufacturer or distributor to show by a preponderance of the evidence that

the disapproval of the transfer, assignment or sale was with good cause and the refusal is not unjust, unfair, inequitable or otherwise in violation of the dealers and manufacturers licensing act. Material factors to be considered may include, but are not limited to:

(1) Whether the basic financial and facility requirements of the franchise agreement will be met by the proposed transfer, assignment or sale;

(2) whether the proposed purchaser, transferee or assignee is capable of operating, managing and supervising such business; and

(3) the extent to which the refusal to approve will have a substantial and adverse effect upon the dealer's investment or return on investment.

(e) The first or second stage manufacturer or distributor shall have a right of first refusal to acquire the new vehicle dealer's assets or ownership in the event of a proposed change of all or substantially all of the dealer's ownership, or the transfer of all or substantially all of the new vehicle dealer's assets, if all of the following are met:

(1) The first or second stage manufacturer or distributor notifies the dealer in writing within the 60-day limit established under subsection (b) of its intent to exercise its right of first refusal;

(2) the exercise of the right of first refusal will result in the dealer and dealer's owners receiving consideration, terms and conditions that either are the same as or greater than that which they have contracted to receive in connection with the proposed change of all or substantially all of the dealer's ownership, or the transfer of all or substantially all of the new vehicle dealer's assets;

(3) the proposed change of all or substantially all of the dealership's ownership or the transfer of all or substantially all of the new vehicle dealer's assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one or more dealer owners to a designated family member or members, including the spouse, child or grandchild, spouse of a child or grandchild, brother, sister or parent of the dealer owner, or one or more dealer owners, or to a qualified manager, or to a partnership or corporation controlled by any such person; or to a trust arrangement established or to be established for the purpose of allowing the new vehicle dealer to continue to qualify as such a dealer, so long as the new vehicle dealer continues to qualify as such pursuant to the first or second stage manufacturer or distributor's standards, or provides for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or its principal owner or owners; and

(4) except as otherwise provided in this subsection, the first or second stage manufacturer or distributor agrees to pay the reasonable expenses, including reasonable attorney fees, which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed owner or transferee prior to the first or second stage manufacturer or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed change of all or substantially all of the dealer ownership, or the transfer of all or substantially all of the new vehicle dealer's assets. No payment of expenses and attorney fees shall be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 20 days of the dealer's receipt of the first or second stage manufacturer or distributor's written request for such an accounting. Such an expense accounting may be requested by a first or second stage manufacturer or distributor before exercising its right of first refusal.

(f) A new vehicle dealer and its owners may appoint by trust, will or any other valid written instrument a successor to the owner's interest in the franchise agreement upon the

owner's death or incapacity, subject to the following procedures:

(1) Unless the first or second stage manufacturer or distributor has good cause to refuse to approve the succession, the successor may succeed to the ownership of the new vehicle dealer under the existing franchise agreement if:

(A) Within 90 days of the owner's death or incapacity, the successor gives written notice of the successor's intent to succeed to ownership of the new vehicle dealer and its franchise agreement; and

(B) the successor agrees to be bound by all the terms and conditions of the franchise agreement with the prior new vehicle dealer.

(2) Upon request, the successor shall promptly provide the first or second stage manufacturer or distributor evidence of the successorship appointment, as well as personal and financial information reasonably necessary to determine whether the succession should be approved by the first or second stage manufacturer or distributor.

(3) If a first or second stage manufacturer or distributor believes that good cause exists to refuse to approve the intended succession under subsection (f)(1), then the first or second stage manufacturer or distributor shall serve the new vehicle dealer and named successor written notice of refusal to approve the intended succession within 60 days of its receipt of the notice of the intended succession, or within 60 days of receiving the information requested under paragraph (f)(2), whichever is later. The notice must contain specific grounds for the refusal to approve the succession. In the event of such a refusal the new vehicle dealer or successor may file a complaint as provided under subsection (c), and the matter shall then proceed to hearing in the manner and on the same basis as the disapproval of a transfer, assignment or sale.

(4) If notice of refusal to approve the intended succession is not served within 60 days upon the intended successor, the successor may continue the franchise agreement and the successor shall thereby be deemed approved by the first or second stage manufacturer or distributor.

(g) It shall be a violation of this act for a first or second stage manufacturer or distributor, or anyone on their behalf, to exercise a right of first refusal or other right to acquire the business of the new vehicle dealer or a franchise agreement as a means to influence the consideration or other terms offered by a person in connection with the acquisition of the business or franchise agreement or to influence a person to refrain from entering into, or to withdraw from, negotiations for the acquisition of the business or franchise agreement.

8-2417. Jurisdiction over licensees; service of process in secretary of state; limitation of rights.

(a) The obtaining of a license hereunder shall bring the applicant under the jurisdiction of the state of Kansas, and if no agent for service of process has been designated by a licensee, the licensee will be deemed to have designated the secretary of the state of Kansas as agent for receipt of service of process.

(b) No franchise agreement or other agreement between the parties to a franchise agreement may limit, waive or substitute the party's rights, duties or obligations under this act absent separate and additional, adequate consideration, nor compel a party to consent to jurisdiction or governance by the law of another state or territory outside Kansas, or to forego any right to trial by jury.

8-2418. Disposition of moneys.

(a) The director shall remit all moneys received by or for the director from fees, charges or penalties under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (b).

(b) On and after July 1, 2002, $25 of each license fee collected under subsections (e) and (f) of K.S.A. 8-2404, and amendments thereto, except that $10 of each license fee collected under paragraph (14) of subsection (e) and subsection (h) of K.S.A. 8-2404, and amendments thereto, shall be remitted to the state treasurer who shall credit such amounts to the vehicle dealers and manufacturers fee fund.

8-2419. Liability of manufacturers and distributors for defects in equipment; indemnification for damages; when.

(a) All first or second stage manufacturers and distributors shall be liable for the full period of the warranty of the vehicle for all defects in any equipment attached to any vehicle at the factory and all defects in any equipment produced by or advertised as an accessory to a vehicle manufactured by such first or second stage manufacturer which is added at the dealership whether such equipment is added to a new or to a used vehicle so long as such equipment has been advertised as being either an "accessory" or an "option."

(b) All first stage manufacturers and second stage manufacturers and distributors shall, upon demand:

(1) Indemnify any existing or former licensee or party to a franchise agreement and the licensee or party's successors and assigns from any and all damages sustained and attorney's fees and other expenses reasonably incurred by the licensee or party that result from or relate to any claim made or asserted by a third party against the licensee or party to the extent the claim results from any of the following:

(A) The condition, characteristics, manufacture, assembly or design of any vehicle, parts, accessories, tools or equipment or the selection or combination of parts or components manufactured or distributed by the manufacturer or distributor;

(B) service systems, procedures or methods the franchisor required or recommended the licensee or party to use if the licensee or party properly uses the system, procedure or method;

(C) improper use or disclosure by a manufacturer or distributor of nonpublic personal information obtained from a licensee or party concerning any consumer, customer or employee of the licensee or party; and

(D) any act or omission of the manufacturer or distributor for which the licensee or party would have a claim for contribution or indemnity under applicable law or under the franchise, irrespective of and without regard to a prior termination or expiration of the franchise.

(2) This subsection does not limit in any way the existing rights, remedies or recourses available to any licensee, party or other person.

8-2420. Act supplemental to vehicle registration laws.

This act is supplementary to the vehicle registration laws of Kansas, and nothing herein shall be construed as abridging or amending such laws.

8-2421. Severability.

If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act, and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

8-2422. Citation of act.
This act may be cited as the vehicle dealers and manufacturers licensing act.

8-2423. Rules and regulations.
The secretary of revenue may adopt such rules and regulations as are necessary for the administration of this act. Prior to hearing or adoption of rules and regulations under this section the secretary shall submit copies thereof to the dealers review board for its review and comment.

8-2425. Full-privilege license plates; dealer-hauler full-privilege trailer license plates; fees; use.

(a) When a first dealer license plate has been issued under K.S.A. 8-2406, and amendments thereto, the secretary of revenue may issue full-privilege license plates or dealer-hauler full-privilege trailer license plates, in accordance with the provisions of this section, to a licensed manufacturer of or licensed dealer in vehicles. In no calendar year shall the secretary issue in excess of 10 of each type of such license plates to any licensed manufacturer or dealer.

(b) The annual fee for each: (1) Full-privilege license plate shall be $350.50; and (2) dealer-hauler full-privilege trailer license plate shall be $350.50.

(c) The secretary shall, upon application provided by the secretary and payment of the fee required in subsection (b), issue to the applicant the appropriate full-privilege license plate, which shall expire on the January 31 next following its issuance, except that the dealer shall have until and including the last day of February of each year within which to make application for renewal.

(d) Subject to subsection (e), a full-privilege license plate may be used in lieu of regular vehicle registration and license plate. A full-privilege license plate may be used on passenger cars or trucks. A full-privilege license plate may be transferred from one vehicle to another owned or in inventory of such manufacturer or dealer and may be assigned for use by any person, at the discretion of the manufacturer or dealer to whom it is issued. The person to whom a full-privilege license plate is assigned for use shall be only a person who is: (1) A member of the immediate family of the licensed manufacturer of or licensed dealer in vehicles; (2) a corporate officer of the licensed manufacturer of or licensed dealer in vehicles; or (3) an employee of the licensed manufacturer of or licensed dealer in vehicles.

(e) A full-privilege license plate shall not be used on a lease or rental vehicle. A full-privilege license plate shall not permit any vehicle to be operated or moved upon a highway to haul commodities weighing in excess of two tons. A full-privilege license plate shall not be used on a wrecker or tow truck when providing wrecker or towing service as defined by K.S.A. 66-1329, and amendments thereto.

(f) A dealer-hauler full-privilege trailer license plate may be used by a trailer manufacturer or trailer dealer in lieu of a regular trailer registration and license plate. A dealer-hauler full-privilege trailer license plate may be used only on trailers. A dealer-hauler full-privilege trailer license plate may be transferred from one trailer to another owned or in inventory of the trailer manufacturer or trailer dealer to whom issued. A dealer-hauler full-privilege trailer license plate may be used by a trailer manufacturer or trailer dealer to haul nonhighway equipment, as defined in rules and regulations, for either demonstration

purposes or delivery, if the weight of the trailer and nonhighway equipment does not exceed 85,500 pounds. The dealer-hauler full-privilege trailer license plate shall expire on the January 31 next following its issuance, except that the dealer shall have until and including the last day of February of each year within which to make application for renewal.

(g) Fees received under this section shall be divided equally between the county treasurer in which the licensed manufacturer or dealer has its established place of business and the secretary of revenue. Amounts allotted to the secretary of revenue shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle dealers and manufacturers fee fund which fund is hereby created in the state treasury. Expenditures from the vehicle dealers and manufacturers fee fund shall be made on vouchers approved by the secretary of revenue, or a person designated by the secretary, for enforcement of the vehicle dealers and manufacturers licensing act in accordance with appropriations therefor. Amounts allotted to the county treasurers shall be credited to the county treasurers' vehicle licensing fee fund which fund is hereby created in the state treasury. Amounts due each county treasurer shall be paid quarterly from such fund upon vouchers approved by the secretary of revenue or a person designated by the secretary. Amounts received by each county treasurer shall be deposited, appropriated and used as provided by K.S.A. 8-145, and amendments thereto.

(h) The provisions of K.S.A. 8-136 and 8-2406, and amendments thereto, shall not apply to full-privilege license plates or dealer-hauler full-privilege trailer license plates or the use thereof.

8-2426. Same; unlawful acts; penalties.

Violation of K.S.A. 8-2406, and amendments thereto, or K.S.A. 8-2425, and amendments thereto, is unlawful, and any person violating any provision thereof shall be subject to civil penalty of not less than $350 and not to exceed $1,000, as determined by the presiding officer from the office of administrative hearings after notice and hearing in accordance with the provisions of the Kansas administrative procedure act. The provisions of this section shall not affect the authority of the secretary of revenue or any officer of the department of revenue in enforcing any provision of the vehicle dealers and manufacturers licensing act, of which K.S.A. 8-2425, and amendments thereto, and this section shall be a part.

8-2428. Dealer review board; duties.

(a) The dealer review board created by K.S.A. 8-2412 and amendments thereto shall:

(1) Confer with the director on matters related to regulations relating to improved vehicle dealer practices;

(2) serve to make suggestions and recommendations for changes in current law relating to vehicle sales and trade;

(3) act as a resource for vehicle industry problems; and

(4) provide expertise to uncover operating problems created by current law, while balancing problems against the greater public interest.

(b) The provisions of this section shall not require any action prior to adoption of any rules and regulations by the secretary of revenue.

8-2429. Interstate dealer licensing compact.

The director of vehicles is hereby authorized to enter into an interstate dealer licensing compact with party states to facilitate the conveyance or exchange of information concerning violations or convictions of civil or criminal offenses committed by nonresident dealers in a party state.

8-2430. Establishment of additional or relocation of existing new vehicle dealer; procedure; relevant market area.

(a) Any licensee, or proposed licensee, who proposes to establish an additional new vehicle dealer for new motor vehicles, including a supplemental place of business for new motor vehicles, or permit the relocation of an existing new vehicle dealer in new motor vehicles to a location within the relevant market area where the same line-make vehicle is already presently represented by a new vehicle dealer or dealers in new motor vehicles of that same line-make shall give written notice of its intention by certified mail to the director of vehicles and shall establish good cause for adding or relocating the new vehicle dealer. The notice required hereunder shall state:

(1) The specific location at which the additional or relocated new vehicle dealer in new motor vehicles will be established;

(2) the date on or after which the licensee, or proposed licensee, intends to be engaged in business as a new vehicle dealer in new motor vehicles at the proposed location;

(3) the identity of all new vehicle dealers in new motor vehicles who are franchised to sell the same line-make vehicle from licensed locations whose relevant market areas include the location where the additional or relocated dealer is proposed to be located;

(4) the names and addresses of the new vehicle dealer-operator and principal investors in the proposed new vehicle dealer's business; and

(5) a short and plain statement of the evidence the licensee, or proposed licensee, intends to rely upon in meeting the burden of proof for establishing good cause for an additional new vehicle dealer for new motor vehicles or permit relocation of an existing new vehicle dealer in new motor vehicles within a relevant market area where the same line-make of vehicle is presently represented by a new vehicle dealer.

Immediately upon receipt of such notice the director shall cause a notice to be published in the Kansas register. The published notice shall state that a petition or complaint by any dealer with standing to protest pursuant to subsection (c) must be filed with the director not more than 30 days from the date of publication of the notice in the Kansas register. The published notice shall describe and identify the proposed new vehicle dealer and dealership sought to be licensed, and the director shall cause a copy of the notice to be mailed to those dealers identified in the notice under paragraph (3) of this subsection.

(b) (1) An application for a new vehicle dealer license to act as a vehicle dealer in new motor vehicles in any city or county shall not be granted when the licensee, or proposed licensee, seeking to establish an additional new vehicle dealer, including a supplemental place of business for new motor vehicles, or relocate an existing new vehicle dealer in the same line-make of vehicles fails to comply with the requirements of this act, or when:

(A) A timely protest is filed by a presently existing new vehicle dealer in new motor vehicles with standing to protest as defined in subsection (c); and

(B) the director has held a hearing and determined that good cause has not been established for permitting the addition or relocation of such new vehicle dealer. The burden of proof in establishing good cause to permit an additional new vehicle dealer in new motor vehicles or to permit the relocation of an existing new vehicle dealer in new motor vehicles shall be on the licensee, or proposed licensee, seeking to establish or relocate a new vehicle dealer and

shall be by a preponderance of the evidence presented;

(2) in determining whether good cause has been established for an additional new vehicle dealer or the relocation of an existing new vehicle dealer for the same line-make of vehicle as provided herein, the director shall take into consideration the existing circumstances, including, but not limited to:

(A) Permanency of the investment of both the existing and proposed new vehicle dealers;

(B) growth or decline in population and new car registrations in the relevant market area;

(C) effect on the consuming public in the relevant market area;

(D) whether it is injurious or beneficial to the public welfare for an additional new vehicle dealer to be established;

(E) whether the new vehicle dealers of the same line-make vehicles in that relevant market area are providing adequate competition and convenient customer care for the vehicles of the line-make in the market area which shall include the adequacy of vehicle sales and service facilities, equipment, supply of vehicle parts and qualified service personnel;

(F) whether the establishment of an additional new vehicle dealer would increase competition and whether such increased competition would be in the public interest;

(G) the effect and denial of relocation will have on a relocating dealer; and

(H) the effect the new vehicle dealer addition or relocation which is proposed will have on the existing dealer or dealers.

The application for a new vehicle dealer license shall not be denied after the applicant meets the requirements of this section if the applicant otherwise meets the requirements of the vehicle dealers and manufacturers licensing act K.S.A. 8-2401, et seq., and amendments thereto.

(c) An existing new vehicle dealer in new motor vehicles shall have standing to protest the proposed addition or relocation of a new vehicle dealer in new motor vehicles where such existing new vehicle dealer in new motor vehicles has a franchise agreement for the same line-make vehicle as that which is to be sold or offered for sale or transfer by the proposed additional or relocated new vehicle dealer and is physically located such that the protesting dealer's relevant market area, as defined in subsection (e), includes the location where the additional or relocated dealer is proposed to be located.

(d) The director shall not issue a license for the proposed additional or relocated new vehicle dealer until a final decision is rendered determining good cause exists for establishing an additional new vehicle dealer or relocating a new vehicle dealer and that the application for the new vehicle dealer's license should be granted.

(e) The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases shall have the following meanings:

(1) "Line-make vehicle" means those new motor vehicles which are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer or distributor of the same; and

(2) "relevant market area" means the area within:

(A) A radius of 10 miles around an existing new vehicle dealer in new motor vehicles, if the existing new vehicle dealer's principal location is in a county having a population of 30,000 or more persons;

(B) a radius of 15 miles around an existing new vehicle dealer in new motor vehicles, if the existing new vehicle dealer's principal location is in a county having a population of less than 30,000 persons; or

(C) the area of responsibility defined in the franchise agreement of the existing dealer, whichever is greater.

(f) No person, entity, licensee or their agents or employees, shall require the relocation, cancellation or termination of an existing dealer or otherwise take any action to penalize any dealer who exercises the rights provided under this section, or undertake such action for the purpose of preventing or avoiding the exercise by a dealer of the rights provided under this section. No franchise agreement made, entered or renewed after the effective date of this act shall contain provisions which avoid or circumvent the requirements of this act.

(g) A dealer's license may be denied, suspended or revoked, or the renewal of a dealer's license may be refused by the director for the dealer's failure to comply with this section or for otherwise violating its provisions.

(h) Any licensee, or proposed licensee, aggrieved by a final order of the director may appeal as provided in subsection (d) of K.S.A. 8-2410, and amendments thereto.

8-2431. Same; exemption for manufacturers with dispute resolution procedures.
The provisions of K.S.A. 8-2430, and amendments thereto, shall not apply to any proposed establishment of an additional new motor vehicle dealer, including a supplemental place of business, or relocation of an existing new motor vehicle dealer, as the case may be, if a manufacturer, distributor or factory branch provides a dispute resolution mechanism for the establishment of an additional new motor vehicle dealer or supplemental place of business or for relocating a new motor vehicle dealer which meets the following criteria:

(a) The decision makers under the dispute resolution mechanism shall either be:

(1) Independent and not employed by, or affiliated with the manufacturer, distributor, factory branch or dealers if there is no specific process reached by prior agreement between the protesting dealer and the manufacturer, distributor or factory branch; or

(2) an individual or panel selected by a process mutually agreeable to the protesting dealer and the manufacturer, distributor or factory branch under the terms of the franchise agreement between them.

(b) There is a standard for deciding such cases under the terms of the dispute resolution process which allows a protesting dealer to include evidence on impact upon the existing dealers in addition to any other factors expressly or implicitly considered under the mechanism.

8-2432. Same; act part of vehicle dealers and manufacturers licensing act.
This act shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

8-2433. Temporary permit for vehicle salesperson.

(a) Whenever application for a license as a vehicle salesperson has been made, a temporary permit may be granted by the director, effective with the application date for the salesperson license provided the salesperson is under direct supervision whenever any sale for a vehicle is conducted. The temporary permit shall be valid until such time as the application is approved or denied by the director but in no case shall such temporary license be valid for a period exceeding 45 days.

(b) The director shall not grant to any person more than one temporary salesperson's license, as provided in subsection (a), during any twelve-month period commencing with the date on which the person made application for licensing as a salesperson and such temporary permit was granted.

(c) This section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

8-2434. Selling motor vehicles without a license; penalty.

It shall be unlawful and constitute a misdemeanor, punishable by a fine not to exceed $2,500, for any person to do business as a motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer, motor vehicle converter, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool or salesperson without a license issued by the director. The isolated or occasional sale of a vehicle by a person who owned such vehicle shall not constitute the doing of business as a vehicle dealer.

8-2435. Display of motor vehicles at a location other than dealer's place of business; permit.

(a) Upon proper application, on a form approved by the division of vehicles, the director of vehicles may authorize the display of new motor vehicles at a location other than the established or supplemental place of business of a motor vehicle dealer provided that the requirements of subsections (i) and (n) of K.S.A. 8-2404, and amendments thereto, and K.S.A. 8-2405, and amendments thereto, are satisfied by the motor vehicle dealer. A fee in the amount of $15 shall be paid by an applicant for each application. No sales transactions may occur at such display locations.

(b) Authorization granted by the director under this section shall be granted only to motor vehicle dealers licensed by the director and to no other person, natural or otherwise. The authorization shall be for a period not to exceed 15 consecutive days unless otherwise authorized by the director of vehicles.

(c) Authorization to display under this section shall not be granted for events for which a temporary trade show license under K.S.A. 2012 Supp. 8-2444, and amendments thereto, would be required.

(d) The director may deny an application for a license under this section if the director:

(1) Has probable cause to believe that the applicant's request for a license should be made under the provisions of K.S.A. 2012 Supp. 8-2444, and amendments thereto; or

(2) the request for a license under this section is being made to avoid compliance with the provisions of K.S.A. 2012 Supp. 8-2444, and amendments thereto.

(e) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

8-2436. Salvage vehicle pools; requirements.

(a) A salvage vehicle pool shall be licensed in accordance with the provisions of this act.

(b) A salvage vehicle pool shall have available on the premises a certificate of title or a facsimile or photocopy of the complete title of a salvage vehicle sold by the salvage vehicle pool.

(c) The provisions of this section shall be part of and supplemental to the vehicle

dealers and manufacturers licensing act.

8-2437. Application of act.

(a) Any licensee receiving or renewing its license after the effective date of this act in all respects agrees to be bound by its provisions and shall comply with it, and no franchise agreement made, entered or renewed after the effective date of this act shall avoid or circumvent the requirements of this act, or violate its provisions, and no franchise agreement shall be performed after the date the licensee's license is issued or renewed in such a manner that the licensee avoids, circumvents or otherwise does not conform or comply with the requirements of this act. Notwithstanding the effective date of any franchise agreement, all licenses and renewals thereof are issued subject to all provisions of the dealers and manufacturers licensing act and any regulations in effect upon the date of issuance, as well as all future provisions of this act and any regulations which may become effective during the term of the license.

(b) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

8-2438. Ownership and operation of new vehicle dealership by certain entities prohibited; exceptions.

(a) Except as provided by this section, and notwithstanding any other provisions of the vehicle dealers and manufacturers licensing act, with respect to motor vehicles, a first stage manufacturer of vehicles or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, may not directly or indirectly:

(1) Own an interest in a new vehicle dealer or dealership;

(2) operate a new vehicle dealer or dealership; or

(3) act in the capacity of a new vehicle dealer or dealership, or otherwise sell new vehicles at retail.

(b) A first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative may own an interest in a franchised dealer or dealership, or otherwise control a dealership, for a period not to exceed 12 months from the date the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, acquires the dealership if:

(1) The person from whom the dealer or dealership was acquired was [a] new vehicle dealer; and

(2) the dealership is for sale by the first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, at a reasonable price and on reasonable terms and conditions.

(c) On a showing of good cause by a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, the director may extend the time limit set forth in subsection (b) one time for a period of not to exceed 12 months.

(d) For the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been under-represented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, but for no other purpose, a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or

factory representative, may temporarily own an interest in a new vehicle dealer or dealership if the first or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative's participation in the new vehicle dealer or dealership is in a bona fide relationship with a new vehicle dealer who:

(1) Has made a significant investment in the new vehicle dealer or dealership, which is subject to loss;

(2) has an ownership interest in the new vehicle dealer or dealership; and

(3) operates the new vehicle dealer or dealership under a plan to acquire full ownership of the new vehicle dealer or dealership within a reasonable time and under reasonable terms and conditions.

(e) A first stage manufacturer of vehicles or a second stage manufacturer of vehicles may own a minority interest in an entity that owns and operates a new vehicle dealer, licensed under the dealers and manufacturer's licensing act, of the line-make manufactured by the first or second stage manufacturer if all of the new vehicle dealers owned and operated by the entity in this state are new vehicle dealers of only the line-make manufactured by the manufacturer and if, on January 1, 2000: (1) There were not more than two new vehicle dealers of that line-make licensed as new vehicle dealers in this state; and (2) at the time the manufacturer first acquires an ownership interest or assumes operation or control, the distance between any new vehicle dealer owned and operated by an entity in which the manufacturer has an ownership interest and the nearest unaffiliated new vehicle dealer of the same line-make is not less than 100 miles.

(f) The words or phrases used in this section shall have the meanings otherwise provided by law, except the following specific words or phrases:

(1) "Dealership" means any physical premises, equipment, and business facilities on or with which a new vehicle dealer operates its business, including the sale or repair of motor vehicles. Dealership includes premises or facilities at which a person engages in the repair of motor vehicles if repairs are performed pursuant to the terms of a franchise agreement or a motor vehicle manufacturer's warranty; and

(2) "line-make vehicle" means those new motor vehicles which are offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer or distributor of the same.

(g) The provisions of this section shall not apply to a first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative as to only those dealers or dealerships which are already owned by such first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor, distributor or factory representative, as the case may be, on the effective date of this act.

8-2439. Delivery of motor vehicles to persons in state; who authorized to deliver.

(a) In addition to any other restrictions or requirements imposed by law, no first stage manufacturer or second stage manufacturer of vehicles, factory branch, distributor branch, or distributor or factory representative may deliver a motor vehicle in this state to a person in this state, unless such motor vehicle is delivered to the person by a vehicle dealer licensed to do business in the state of Kansas pursuant to the dealers and manufacturers licensing act and as provided in this section. Unless otherwise provided by law, all new motor vehicles shall be delivered as required by this section by a new vehicle dealer who is a party to a franchise agreement for the same line-make vehicle as that to be delivered and in the case of used motor vehicles, then by a new vehicle dealer or used vehicle dealer. As used in this section, the term "line-make vehicle" shall have the same meaning as provided in K.S.A. 8-

2438, and amendments thereto.

(b) The requirements of this section shall not apply to:

(1) A person to whom the provisions of subsection (v) of K.S.A. 8-2404, and amendments thereto, apply;

(2) motor vehicles delivered by one licensed motor vehicle dealer to another within the scope of such license, including those delivered by first stage manufacturers and second stage manufacturers to each other;

(3) deliveries of motor vehicles, including those which are used, to new vehicle dealers for resale in this state by such new vehicle dealer;

(4) deliveries of used motor vehicles to auction motor vehicle dealers, used vehicle dealers and salvage vehicle dealers for resale in this state; and

(5) (A) deliveries of motor vehicles to first stage converters and second stage converters for the construction and sale of motor vehicles produced by such licensee; or

(B) the resulting motor vehicles so constructed and produced by such licensee if it has not historically relied primarily upon franchise agreements with new vehicle dealers for the retail sale in this state of a material portion of the motor vehicles it produces and does not primarily utilize or rely upon franchise agreements between itself and new vehicle dealers for the retail sale in this state of new motor vehicles produced by such first or second stage convertor.

8-2440. Transactions executed outside state; when lemon law applicable.

If a transaction for the sale of a new motor vehicle which does not take place in the state of Kansas requires or allows delivery in the state of Kansas, then such new motor vehicle shall be deemed to have been sold in this state for purposes of meeting the definition set forth in subsection (a)(2) of K.S.A. 50-645, and amendments thereto, upon delivery of such motor vehicle within the state of Kansas to a consumer as defined in subsection (a)(1) of K.S.A. 50-645, and amendments thereto, and the new motor vehicle shall thereafter be subject to the provisions of K.S.A. 50-645 and 50-646, and amendments thereto.

8-2441. Aiding or abetting violations of act prohibited.

No dealer may aid or abet a person in violating the dealers and manufacturers licensing act.

8-2442. Severability.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

8-2443. Act supplemental to vehicle dealers and manufacturers licensing act.

This act shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

8-2444. Temporary trade show license; requirements; fees.

(a) Upon proper application on a form approved by the division of vehicles, the director of vehicles may issue a license known as a temporary trade show license. A fee in the amount of $50 shall be paid by an applicant for each trade show license. Such license shall only allow the display of new trucks, truck tractors or semitrailers as defined by K.S.A. 8-126, and amendments thereto, or new recreational motor vehicles, at a location other than the

established or supplemental place of business of the dealer. If trucks or truck tractors are displayed at such trade show, only trucks or truck tractors with a gross weight rating of 26,000 pounds or more shall be displayed at such trade shows. No sales transactions may occur under such temporary trade show license or at any such authorized display location.

(b) The following shall apply to the issuance of a temporary trade show license:

(1) New vehicle dealers in each particular same line-make of truck, truck tractor, semitrailer or recreational motor vehicle whose relevant market area, as defined by K.S.A. 8-2430, and amendments thereto, includes the proposed site of the trade show display, shall be invited to attend and to participate in the trade show display;

(2) the trade show shall not exceed four consecutive days;

(3) each dealer has received the prior approval of the first stage manufacturer, second stage manufacturer, first stage converter or second stage converter for each line-make of truck, truck tractor, semitrailer or recreational vehicle to be displayed and the fact the event will be a trade show has been disclosed at the time of seeking such approval;

(4) if the applicant is not a Kansas licensee, then such applicant must be licensed in a state which permits vehicle dealers licensed in Kansas who sell trucks, truck tractors, semitrailers and recreational vehicles to participate in vehicle shows in such state pursuant to conditions substantially equivalent or less than the conditions which are imposed on dealers from such state who participate in vehicle shows in Kansas;

(5) if less than 50 vehicle dealers participate as exhibitors at such trade shows, then at least 50% of the participating vehicle dealers shall be as licensed motor vehicle dealers in this state;

(6) no more than two trade show licenses shall be issued per participant per county per year;

(7) the requirements of subsections (i) and (n) of K.S.A. 8-2404, and amendments thereto, and K.S.A. 8-2405, and amendments thereto, shall be satisfied by each motor vehicle dealer;

(8) a disclaimer that the trucks, truck tractors, semitrailers or recreational motor vehicles are for display purposes only and not for sale shall be placed on such vehicles in a clear and conspicuous manner to be prescribed by the director; and

(9) such other provisions of the dealers and manufacturers licensing act, K.S.A. 8-2401 et seq., and amendments thereto, designated applicable by the director of vehicles.

(c) Any dealer displaying at any such trade show shall be licensed in this or another state as a vehicle dealer under the laws of this or another jurisdiction and shall pay a fee of $35.

(d) The provisions of this section shall be a part of and supplemental to the vehicle dealers and manufacturers licensing act.

8-2601. Definitions.

As used in K.S.A. 2012 Supp. 8-2601 through 8-2611, and amendments thereto:

(a) "Director" means the director of vehicles, or a designee of the director;

(b) "division" means the division of vehicles of the department of revenue;

(c) "person" means every natural person, firm, partnership, association or corporation;

(d) "vehicle" means every device in, upon or by which any person or property is or

may be transported or drawn upon or public highway and is required to have a certificate of title of ownership issued pursuant to article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto;

(e) "vehicle dealer" shall have the meaning ascribed to it in K.S.A. 8-2401, and amendments thereto;

(f) "vehicle title service agent" means any person who acts as an agent for a fee in making application for or obtaining:

(1) A certificate of title of ownership of a vehicle;
(2) registration for or the license plate or plates for a vehicle;
(3) renewing the registration of a vehicle;
(4) temporary registrations for a licensed Kansas vehicle dealer;
(5) title assignment addendums for a licensed Kansas vehicle dealer; or
(6) sales tax receipt books for a licensed Kansas vehicle dealer.

"Vehicle title service agent" shall not include any person who is licensed under the provisions of K.S.A. 8-2401 et seq., and amendments thereto, or any person who engages as a vehicle title service agent only for commercial vehicles, as defined under K.S.A. 8-1,100, and amendments thereto.

8-2602. Complying with provisions of act.

No person shall engage in the business of a vehicle title service agent unless such person has complied with the provisions of this act. The director shall issue licenses provided by this act and shall have supervision over the licensees in respect to all the provisions of this act.

8-2603. License required; application; requirements; bonding.

(a) No vehicle title service agent shall engage in business in this state without obtaining a license as required by this act.

(b) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The application shall contain the name of the applicant, the address where business is to be conducted, the resident's address, if the applicant is an individual, the names and resident addresses of the partners of the applicant, if a partnership, the names and resident addresses of the principal officers of the applicant and the state of its incorporation, if a corporation. Every application under this section shall be verified by the applicant.

(c) All licenses shall be granted or refused within 30 days after the application is received by the director. If the division issues a license to an applicant, the applicant shall be authorized to engage in the business only at the address specified in the application. All licenses shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted. Applications for renewals received by the director after February 15 shall be considered as new applications. The license fees for each calendar year, or any part thereof, shall be $75.

(d) A vehicle title service agent license is only valid to the person to which it is issued and cannot be transferred. Any purchaser or transferee of a vehicle title service agency must make application for a new vehicle title service license as provided by this act.

(e) The applicant or licensee shall furnish and maintain a bond in the amount of $25,000, in such form and with such sureties as the director approves, conditioned upon the applicant or licensee complying with all the requirements for the lawful obtaining or receiving of certificates of title for vehicles and as indemnity for any loss sustained by reason of the

acts of the person bonded when such acts constitute grounds for suspension or revocation of such person's license. Every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved retail or wholesale buyer or seller of a vehicle. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Upon determination by the director that a judgment from a Kansas court of competent jurisdiction is a final judgment and that the judgment resulted from an act in violation of this act or would constitute grounds for suspension, revocation, refusal to renew a license or administrative fine pursuant to K.S.A. 2012 Supp. 8-2606, and amendments thereto, the proceeds of the bond on deposit or in lieu of bond provided by subsection (f), shall be paid. The determination by the director under this subsection is hereby specifically exempted from the Kansas administrative procedure act (K.S.A. 77-501 through 77-549, and amendments thereto,) and the Kansas judicial review act (K.S.A. 77-601 through 77-627, and amendments thereto). Any proceeding to enforce payment against a surety following a determination by the director shall be prosecuted by the judgment creditor named in the final judgment sought to be enforced. Upon a finding by the court in such enforcement proceeding that a surety has wrongfully failed or refused to pay, the court shall award reasonable attorney fees to the judgment creditor.

(f) An applicant or licensee may elect to satisfy the bonding requirements of subsection (e) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas. The amount of cash, negotiable bonds of the United States or of the state of Kansas or negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas deposited with the state treasurer shall be in an amount of $25,000. When negotiable bonds or negotiable certificates of deposit have been deposited with the state treasurer to satisfy the bonding requirements of subsection (e), such negotiable bonds or negotiable certificates of deposit shall remain on deposit with the state treasurer for a period of not less than two years after the date of delivery of the certificate of title to the vehicle which was the subject of the last transaction in which the licensee engaged prior to termination of the licensee's license. In the event a licensee elects to deposit a surety bond in lieu of the negotiable bonds or negotiable certificates of deposit previously deposited with the state treasurer, the state treasurer shall not release the negotiable bonds or negotiable certificates of deposits until at least two years after the date of delivery of the certificate of title to the vehicle which was the subject of the last transaction in which the licensee engaged prior to the date of the deposit of the surety bond. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

8-2604. Title service agents; log required.

(a) Every licensee shall maintain for three years, a log containing a record entry of the date of each application, the name of the person for whom the title services were performed, the name of the owner, the vehicle identification number for each vehicle and if the service is performed for an individual, photo identification of the owner.

(b) Any record kept pursuant to subsection (a) shall be open to inspection by any authorized agent of the division of vehicles, member of the Kansas highway patrol or any

authorized law enforcement officer during reasonable business hours.

8-2605. Denial, suspension or revocation of license; grounds.

(a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

(1) Material false statement in an application for a license;

(2) negligently failing to comply with any provision of this act or any rule and regulation adopted pursuant to this act;

(3) failure or refusal to furnish and keep in force any required bond;

(4) failure to comply with the laws of this state relating to certificates of title of vehicles;

(5) has failed or refused to permit inspection of the licensee's records as provided under subsection (b) of K.S.A. 2012 Supp. 8-2604, and amendments thereto, during the licensee's regular business hours;

(6) has failed or refused to surrender their license to the division or its agent upon demand;

(7) has demonstrated that such person is not of good character and reputation in the community in which the licensee resides;

(8) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a vehicle title service agent;

(9) has changed the location of such person's established place of business prior to approval of such change by the division;

(10) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(11) has failed to prominently display license; or

(12) has failed to comply with applicable Kansas tax laws.

(b) The director may deny the application for the license within 30 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 applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(c) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its representatives while acting as its agent.

(d) Any licensee or other person aggrieved by a final order of the director, may appeal to the district court as provided by the Kansas judicial review act.

8-2606. Hearing for violation of act; penalty.

(a) When any licensee is found to be allegedly violating any of the applicable provisions of this act, or any order or rule and regulation adopted pursuant thereto, the director upon the director's own motion or upon complaint may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person who is found to have violated any applicable provisions of this act,

any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than $100 nor more than $2,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation.

(c) Any party aggrieved by the decision of the director may appeal the same to the district court in accordance with the provisions of the Kansas judicial review act.

8-2607. Injunction; jurisdiction of courts.
Upon application of the director or any person having any interest in the subject matter, the district courts of this state may enjoin any person from violating any of the provisions of this act or any order or rule and regulation issued or adopted pursuant thereto.

8-2608. Service of process; secretary of state.
The obtaining of a license hereunder shall bring the applicant under the jurisdiction of the state of Kansas, and if no agent for service of process has been designated by a licensee, the licensee will be deemed to have designated the secretary of the state of Kansas as agent for receipt of service of process.

8-2609. Disposition of moneys.
The director shall remit all moneys received by or for the director from fees, charges or penalties under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle dealers and manufacturers fee fund.

8-2610. Rules and regulations.
The secretary of revenue may adopt such rules and regulations as are necessary for the administration of this act.

8-2611. Citation of act.
The provisions of K.S.A. 2012 Supp. 8-2601 through 8-2611, and amendments thereto, may be cited as the vehicle title service agent licensing act.

12-191. Same; situs of taxable transactions; rules and regulations; effective date for collection of taxes; revenue in excess of budget, disposition.
All retail transactions consummated within a county or city having a retail sales tax, which transactions are subject to the Kansas retailers' sales tax, shall also be subject to such county or city retail sales tax. Except as hereinafter provided, all retail sales, for the purpose of this act, shall be considered to have been consummated at the location determined by the sourcing rules as provided in K.S.A. 2012 Supp. 79-3670, and amendments thereto. The retail sales or transfer of watercraft, modular homes, manufactured homes or mobile homes, shall be considered consummated at the place of business of the retailer and sourced to such location. The retail sale, excluding the lease or rental, of motor vehicles, trailers, semi-trailers or aircraft that do not qualify as transportation equipment, as defined in subsection (d) of K.S.A. 2012 Supp. 79-3670, and amendments thereto, shall be considered consummated at the place of business of the retailer and sourced to such location. The isolated or occasional sale of any motor vehicle or trailer shall be considered consummated at the taxing jurisdiction where the sale is made. If the sale negotiations occurred in different cities or counties, the situs of the sale for local sales tax purposes shall be the place where

the motor vehicle or trailer was kept at the time negotiations were first entered into. In the event the place of business of a retailer is doubtful the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations adopted by the secretary of revenue which rules and regulations shall be considered with state and federal law insofar as applicable. The director of taxation is hereby authorized to request and receive from any retailer or from any city or county levying the tax such information as may be reasonably necessary to determine the liability of retailers for any county or city sales tax. The collection of any sales tax of a county or city approved at any election shall commence on the first day of the calendar quarter next following the 90th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The collection of any such sales tax applicable to printed catalog purchases wherein the purchaser computed the tax based upon local tax rates published in the catalog, shall not commence until the first day of the calendar quarter next following the 150th day after the date that the city or county has provided written notice to the director of taxation of the election authorizing the levy of such tax. The director of taxation shall provide notice to sellers of such taxes within 30 days after receiving such notice from the city or county.

A city retailers' sales tax shall not become effective within any area annexed by a city levying such tax until the first day of the calendar quarter next following the 90th day after the date that the governing body of such city provided the state department of revenue with a certified copy of the annexation ordinance and a map of the city detailing the annexed area. The director of taxation shall provide notice to sellers of such tax within 30 days after receiving such notice from the city or county.

Whenever any sales tax, imposed by any city or county under the provisions of this act, shall become effective, at any time prior to the time that revenue derived therefrom may be budgeted for expenditure in such year, such revenue shall be credited to the funds of the taxing subdivision or subdivisions and shall be carried forward to the credit of such funds for the ensuing budget year in the manner provided for carrying forward balances remaining in such funds at the end of a budget year.

12-199. Imposition of city and county compensating use tax upon certain motor vehicles; rate; administration, collections and distribution.

(a) A compensating use tax for the privilege of using or storing within a city or county any vehicle which is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, and which is purchased within this state but without the local retailers' sales taxing jurisdiction of such city or county, is hereby imposed by every city or county imposing a retailers' sales tax. The rate of any such tax shall be equal to the difference between the aggregate rate of all local retailers' sales tax rates imposed by all local retailers sales taxing jurisdictions of the situs of such vehicle less the aggregate rate of all local retailers' sales tax rates imposed by all local retailers' sales taxing jurisdictions of the situs of the purchase of such vehicle. Except as otherwise provided in this section, any city or county imposing a compensating use tax is prohibited from administering such tax locally, but shall utilize the services of the state department of revenue to administer and enforce such tax. All laws and rules and regulations of the state department of revenue relating to the Kansas compensating tax shall apply to such local compensating use tax insofar as the same may be made applicable. Such tax shall be collected by the county treasurer at the time the vehicle is registered in this state following a sale occurring within this state. Registration of such vehicle within a taxing jurisdiction shall be deemed to constitute use or storage thereof for compensating tax purposes and the residence or place

of business of the applicant shall be deemed to be the situs of such use or storage for purposes of the collection and distribution thereof.

(b) The secretary of revenue is authorized to administer and enforce a city's or county's compensating use tax and to adopt such rules and regulations necessary for the efficient and effective administration, enforcement and collection thereof.

(c) All revenue received by any county treasurer from a countywide compensating use tax shall be apportioned among the county and each city located in such county in the same manner as provided in K.S.A. 12-192, and amendments thereto, for the apportionment of revenue received from a countywide retailers' sales tax, and all revenue received from a city compensating use tax shall be remitted at least quarterly to the treasurer of such city.

40-3104. Motor vehicle liability insurance coverage required; prohibited vehicle operation; verification; self-insurance; display of proof of financial security; penalties for failure to maintain financial security; reinstatement fees.

(a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall transmit a copy of the insurance verification form prescribed by the secretary of revenue with the copy of the citation transmitted to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsection

(b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any liability imposed by law against such person arising out of the ownership, operation, maintenance or use of any motor vehicle described in this subsection. A self-insurer shall provide liability coverage subject to the provisions of subsection (e) of K.S.A. 40-3107, and amendments thereto, arising out of the ownership, operation, maintenance or use of a self-insured motor vehicle in those instances where the lessee or the rental driver, if not the lessee, does not have a motor vehicle liability insurance policy or insurance coverage pursuant to a motor vehicle liability insurance policy or certificate of insurance or such insurance policy for such leased or rented vehicle. Such liability coverage shall be provided to any person operating a self-insured motor vehicle with the expressed or implied consent of the self-insurer.

Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to provide liability coverage or personal injury protection benefits required by K.S.A. 40-3107 and 40-3109, and amendments thereto, or pay any liability imposed by law arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, or to otherwise comply with the

requirements of this subsection shall constitute reasonable grounds for the cancellation of a certificate of self-insurance. Reasonable grounds shall not exist unless such objectionable activity occurs with such frequency as to indicate a general business practice.

Self-insureds shall investigate claims in a reasonably prompt manner, handle such claims in a reasonable manner based on available information and effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear.

As used in this subsection, "liability imposed by law" means the stated limits of liability as provided under subsection (e) of K.S.A. 40-3107, and amendments thereto.

Nothing in this subsection shall preclude a self-insurer from pursuing all rights of subrogation against another person or persons.

(g) (1) Any person violating any provision of this section shall be guilty of a class B misdemeanor and shall be subject to a fine of not less than $300 nor more than $1,000 or confinement in the county jail for a term of not more than six months, or both such fine and confinement.

(2) Any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor and shall be subject to a fine of not less than $800 nor more than $2,500.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (d) of this section, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto:

(1) Suspend:

(A) The license of each driver in any manner involved in the accident;

(B) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(C) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(D) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner; and

(2) revoke the registration of all vehicles owned by the owner of each motor vehicle involved in such accident.

(i) The suspension or revocation requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any self-insurer as defined by subsection (u) of K.S.A. 40-3103, and amendments thereto;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) (1) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

(2) Subject to the provisions of subsection (k), any suspension or revocation effected hereunder shall remain in effect until such person:

(A) Has filed satisfactory proof of financial security with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto;

(B) has paid the reinstatement fee herein prescribed; and

(C) (i) has been released from liability;

(ii) is a party to an action to determine liability pursuant to which the court temporarily stays such suspension pending final disposition of such action;

(iii) has entered into an agreement for the payment of damages; or

(iv) has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director.

(3) The reinstatement fee shall be $100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be $300.

(k) (1) Whenever any person whose license has been suspended or revoked pursuant to this section is involved in an accident and has entered into an agreement with any driver, or such driver's insurer, who has been damaged or whose vehicle has been damaged to pay for such damage and such person defaults on payments under such agreement, the driver or the driver's insurer, as appropriate, shall notify the director within 60 days of the date of default.

(2) Upon receipt of the notice of default, the director shall immediately suspend such person's license and registration. If such person is a nonresident, the director shall immediately suspend such nonresident's privilege to operate a motor vehicle in this state.

(3) Except as provided in paragraph (4), such person's driver's license, registration and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until:

(A) The director receives notice payments under the agreement referred to in paragraph (1) have been resumed and that payments under such agreement are no longer in default;

(B) such person has filed satisfactory proof of financial responsibility with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto; and

(C) the reinstatement fee required by subsection (j) has been paid.

(4) Upon due notice to the director that the conditions of paragraph (3) have been fulfilled, such person may obtain from the director an order restoring such person's driver's license, registration and nonresident's operating privilege to operate a motor vehicle in this state conditioned upon such person's continued compliance

with the agreement referred to in paragraph (1).

(5) In the event such person fails to make any further payment under the agreement referred to in paragraph (1) when such payment is due, the director, upon receipt of notice of such default, shall immediately suspend the license, registration or nonresident's operating privilege of such person until all payments have been made under the agreement referred to in paragraph (1). No suspension of such person's license, registration or nonresident's privilege to operate a motor vehicle in this state shall be reinstated pursuant to paragraph (4).

(l) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.

(m) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.

40-3105. Exempt vehicles. The following vehicles shall be exempt from the provisions of this act:

(a) Any motor vehicle owned by the government of the United States, any state or any political subdivision of any state;

(b) an implement of husbandry or special mobile equipment which is operated only incidentally on a highway or property open to use by the public;

(c) a vehicle operated on a highway only for the purpose of crossing such highway from one property to another; and

(d) a nonhighway vehicle for which a nonhighway certificate of title has been issued pursuant to K.S.A. 8-198, and amendments thereto, except when such vehicle is being operated pursuant to subsection (g) of K.S.A. 8-198, and amendments thereto.

40-3107. Motor vehicle liability insurance policies; required contents; exclusions of coverage.

Every policy of motor vehicle liability insurance issued by an insurer to an owner residing in this state shall:

(a) Designate by explicit description or by appropriate reference of all vehicles with respect to which coverage is to be granted;

(b) insure the person named and any other person, as insured, using any such vehicle with the expressed or implied consent of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of any such vehicle within the United States of America or the Dominion of Canada, subject to the limits stated in such policy;

(c) state the name and address of the named insured, the coverage afforded by the policy, the premium charged and the policy period;

(d) contain an agreement or be endorsed that insurance is provided in accordance with the coverage required by this act;

(e) contain stated limits of liability, exclusive of interest and costs, with respect to each vehicle for which coverage is granted, not less than $25,000 because of bodily injury to, or death of, one person in any one accident and, subject to the limit for one person, to a limit of not less than $50,000 because of bodily injury to, or death of, two or more persons in any one accident, and to a limit of not less than $10,000 because of harm to or destruction of property of others in any one accident;

(f) include personal injury protection benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle and other persons struck by such motor vehicle and suffering bodily injury while

not an occupant of a motor vehicle, not exceeding the limits prescribed for each of such benefits, for loss sustained by any such person as a result of injury. The owner of a motorcycle, as defined by K.S.A. 8-1438 and amendments thereto or motor-driven cycle, defined by K.S.A. 8-1439 and amendments thereto, who is the named insured, shall have the right to reject in writing insurance coverage including such benefits for injury to a person which occurs while the named insured is operating or is a passenger on such motorcycle or motor-driven cycle; and unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy when the named insured has rejected the coverage in connection with a policy previously issued by the same insurer. The fact that the insured has rejected such coverage shall not cause such motorcycle or motor-driven cycle to be an uninsured motor vehicle;

(g) notwithstanding any omitted or inconsistent language, any contract of insurance which an insurer represents as or which purports to be a motor vehicle liability insurance policy meeting the requirements of this act shall be construed to obligate the insurer to meet all the mandatory requirements and obligations of this act;

(h) notwithstanding any other provision contained in this section, any insurer may exclude coverage required by subsections (a), (b), (c) and (d) of this section while any insured vehicles are:

(1) Rented to others or used to carry persons for a charge, however, such exclusion shall not apply to the use of a private passenger car on a share the expense basis;

(2) being repaired, serviced or used by any person employed or engaged in any way in the automobile business. This does not apply to the named insured, spouse or relative residents; or the agents, employers, employees or partners of the named insured, spouse or resident relative; and

(i) in addition to the provisions of subsection (h) and notwithstanding any other provision contained in subsections (a), (b), (c) and (d) of this section, any insurer may exclude coverage:

(1) For any damages for which the United States government might be liable for the insured's use of the vehicle;

(2) for any damages to property owned by, rented to, or in charge of or transported by an insured, however, this exclusion shall not apply to coverage for a rented residence or rented private garage;

(3) for any obligation of an insured, or the insured's insurer under any type of workers' compensation or disability or similar law;

(4) for liability assumed by an insured under any contract or agreement;

(5) if two or more vehicle liability policies apply to the same accident, the total limits of liability under all such policies shall not exceed that of the policy with the highest limit of liability;

(6) for any damages arising from an intentional act;

(7) for any damages to any person who would be covered for such damages under a nuclear energy liability policy;

(8) for any obligation of the insured to indemnify another for damages resulting from bodily injury to the insured's employee by accident arising out of and in the course of such employee's employment;

(9) for bodily injury to any fellow employee of the insured arising out of and in the course of such employee's employment;

(10) for bodily injury or property damage resulting from the handling of property:

(A) Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto; or

(B) after it is moved from the covered auto to the place where it is finally delivered by the insured;

(11) for bodily injury or property damage resulting from the movement of property by a mechanical device, other than a hand truck, not attached to the covered auto; and

(12) for bodily injury or property damage caused by the dumping, discharge or escape of irritants, pollutants or contaminants; however, this exclusion does not apply if the discharge is sudden and accidental.

50-645. Motor vehicle warranties; definitions; consumer rights and remedies; enforcement by attorney general.

(a) As used in this act:

(1) "Consumer" means the original purchaser or lessee, other than for purposes of resale, of a motor vehicle; and

(2) "motor vehicle" means a new motor vehicle which is sold or leased in this state, and which is registered for a gross weight of 12,000 pounds or less, and does not include the customized parts of motor vehicles which have been added or modified by second stage manufacturers, first stage converters or second stage converters as defined in K.S.A. 8-2401, and amendments thereto.

(b) If a motor vehicle does not conform to all applicable warranties, and the consumer reports the nonconformity to the manufacturer, its agent or its authorized dealer during the term of any warranties or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such warranties, notwithstanding the fact that such repairs are made after the expiration of any such term or such one-year period.

(c) If the manufacturer, or its agents or authorized dealers, are unable to conform the motor vehicle to any applicable warranty after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a comparable motor vehicle under warranty or accept return of the vehicle from the consumer and refund to the consumer the full purchase or lease price including all collateral charges, less a reasonable allowance for the consumer's use of the vehicle as calculated from the most recent edition of *Your Driving Costs*, published by the American automobile association. Refunds shall be made to the consumer, and lienholder if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer and any previous consumer prior to the first report of the nonconformity to the manufacturer, agent or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this act that:

(1) An alleged nonconformity does not substantially impair such use and value; or

(2) a nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle by a consumer.

(d) If the manufacturer receives actual notice of the nonconformity, it shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable warranties, if:

(1) The same nonconformity which substantially impairs the use and value of the motor vehicle to the consumer has been subject to repair four or more times by

the manufacturer or its agents or authorized dealers within the term of any warranty or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but such nonconformity continues to exist;

(2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more calendar days during such term or period, whichever is the earlier date; or

(3) there have been 10 or more attempts to repair any nonconformities which substantially impair the use and value of the motor vehicle to the consumer and such attempts to repair have been attempts by the manufacturer or its agents or authorized dealers.

The term of any warranty, such one-year period and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of war, invasion, strike, fire, flood or other natural disaster.

(e) If a manufacturer has established an informal dispute settlement procedure which complies in all respects with the provisions of title 16, code of federal regulations, part 703, as from time to time amended, the provisions of subsection (c) concerning refunds or replacement shall not apply to any consumer who has not first resorted to such procedure.

(f) The attorney general shall have jurisdiction to enforce this section.

50-653. Title search disclosure; supplier no liability if disclosed.

A supplier as defined herein shall disclose in writing to the purchaser of a motor vehicle at or before the time of entering into the purchase agreement whether the supplier has or has not performed a title search for such motor vehicle and such disclosure statement shall be signed by the purchaser acknowledging such disclosure was made to the purchaser. A supplier who makes the foregoing disclosure shall have no liability under K.S.A. 50-648, 50-650 and 50-651, and amendments thereto, to a purchaser of the vehicle in the event the mileage shown for the motor vehicle is inaccurate or untrue, unless such supplier violated the provisions of subsection (a)(4) of K.S.A. 2012 Supp. 21-5835, and amendments thereto.

50-653a. Odometer fraud; attorney general investigations of violations; subpoena power.

(a) If, by the attorney general's own inquiries or as a result of complaints, the attorney general has reason to believe that a person has engaged in, is engaging in or is about to engage in an act or practice that violates this act, the attorney general, or any deputy attorney general or assistant attorney general, may administer oaths and affirmations, subpoena witnesses or matter and collect evidence.

(b) If matter that the attorney general subpoenas is located outside this state, the person subpoenaed may either make it available to the attorney general at a convenient location within the state or pay the reasonable and necessary expenses for the attorney general or the attorney general's representative to examine the matter at the place where it is located. The attorney general may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the attorney general's behalf, and the attorney general may respond to similar requests from officials of other states.

(c) Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this state, but if such cannot be obtained, substituted service therefor may be made in the following manner:

(1) Personal service thereof without this state; or

(2) the mailing thereof by certified mail to the last known place of business,

residence or abode within or without this state of such person for whom the same is intended; or

(3) in the manner provided in the code of civil procedure as if a petition had been filed; or

(4) such service as the district court may direct in lieu of personal service within this state.

(d) The attorney general may request that an individual who refuses to comply with a subpoena, on the ground that testimony or matter may incriminate the individual, be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which the individual is entitled by law, may not be subjected to a criminal proceeding or to a civil penalty to the transaction concerning which the individual is required to testify or produce relevant matter. This subsection does not apply to civil sanctions imposed under K.S.A. 50-651, and amendments thereto.

(e) If any person willfully fails or refuses to file any statement or report required by this act, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the district court and, after a hearing thereon, the district court may issue an order:

(1) Granting injunctive relief restraining the sale or advertisement of any merchandise by such persons; or

(2) vacating, annulling or suspending the corporate charter of a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; or

(3) granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena.

(f) The county attorney or district attorney may investigate, institute and commence actions under this act pursuant to the odometer fraud statutes in K.S.A. 50-647 through 50-653, and amendments thereto, in the same manner as provided for the attorney general. It shall be the duty of the county attorney or district attorney to lend to the attorney general such assistance as the attorney general may request in the investigation, commencement and prosecution of actions in the district court of the county or district attorney's county pursuant to this act, or the county attorney or district attorney may institute and prosecute actions hereunder in the same manner as provided for the attorney general.

(g) This section shall be part of and supplemental to the odometer fraud statutes in K.S.A. 50-647 through 50-653, and amendments thereto.

50-659. Vehicle dealer's duty to disclose specific facts; failure to disclose creates rebuttable presumption; definitions; deceptive act or practice.

(a) A vehicle dealer, as defined in K.S.A. 8-2401, and amendments thereto, shall not knowingly or intentionally fail to disclose in writing to the consumer of a motor vehicle the following:

(1) The fact that a motor vehicle was used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto;

(2) the fact that a motor vehicle was used as a leased or rented motor vehicle; or

(3) the fact that a motor vehicle was a factory buyback motor vehicle or returned to a vehicle dealer under the provisions of K.S.A. 50-645, and amendments

thereto.

Failure of the vehicle dealer to disclose in writing the information in paragraphs (1), (2) and (3) shall create a rebuttable presumption of intent not to disclose such information.

(b) For the purposes of this section:

(1) "Motor vehicle" means a motor vehicle which is registered for a gross weight of 12,000 pounds or less, or a farm truck registered for a gross weight of 16,000 pounds or less;

(2) "consumer" means the first individual to take title to a motor vehicle, for purposes other than resale, after such vehicle was:

(A) Used as a leased or rented motor vehicle;

(B) a driver training motor vehicle;

(C) repurchased or reacquired by the manufacturer or distributor as a factory buyback motor vehicle; or

(D) returned to a vehicle dealer under the provisions of K.S.A. 50-645, and amendments thereto;

(3) "leased or rented motor vehicle" does not include a motor vehicle which is leased, loaned or rented by a vehicle dealer to a customer of such dealer while the customer's motor vehicle is being serviced or repaired by such dealer;

(4) "factory buyback motor vehicle" means a motor vehicle repurchased or reacquired by the manufacturer or distributor due to an order or judgment by a court of law or formal, informal or mandatory arbitration procedure, and placed for sale through any dealer, auction or agent.

(c) Any violation of this section is a deceptive act or practice under the Kansas consumer protection act.

(d) This section shall be a part of and supplemental to the Kansas consumer protection act.

58-4201. Manufactured housing act; citation.
K.S.A. 58-4201 through 58-4212 shall be known and may be cited as the Kansas manufactured housing act.

58-4202. Same; definitions. As used in the Kansas manufactured housing act, unless the context clearly requires otherwise:

(a) "Manufactured home" means a structure which is subject to the federal act and which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, and such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files with the United States department of housing and urban development a certification required by the secretary of housing and urban development and complies with the standards established under the federal act, except that such term shall not include any self-propelled recreational vehicle.

(b) "Mobile home" means a structure which is not subject to the federal act and which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more

in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

(c) "Modular home" means a structure which is: (1) Transportable in one or more sections; (2) designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and (3) certified by its manufacturer as being constructed in accordance with a nationally recognized building code.

(d) "Factory-built home" means a mobile home, manufactured home or modular home.

(e) "Division" means the division of vehicles of the department of revenue.

(f) "Director" means the director of vehicles, either acting directly or through officers or agents of the division of vehicles of the department of revenue.

(g) "Manufactured home dealer" or "dealer" means any person who, for commission, money or other thing of value, is engaged in the business of:

(1) Buying, selling or offering or attempting to negotiate a sale of an interest in manufactured homes or mobile homes; or

(2) buying, selling or offering or attempting to negotiate a sale of an interest in manufactured homes or mobile homes for other persons as an agent, middleman or negotiator; or

(3) bringing together buyers and sellers of manufactured homes or mobile homes.

(h) "New manufactured home dealer" means any manufactured home dealer who is a party to a manufactured home sales agreement with a manufactured home manufacturer, which manufactured home sales agreement authorizes the manufactured home dealer to sell, exchange or transfer new manufactured homes or parts and accessories made or sold by such manufactured home manufacturer, and authorizes the manufactured home dealer to fulfill the warranty commitments of such manufactured home manufacturer.

(i) "Used manufactured home dealer" means any person actively engaged in the business of buying, selling or exchanging used manufactured homes or mobile homes.

(j) "Manufactured home manufacturer" or "manufacturer" means any person who manufactures, assembles and sells new manufactured homes, subject to regulation pursuant to the federal act, to new manufactured home dealers for resale in this state, whether such person is located within or outside the state of Kansas.

(k) "Salesperson" means any person who is employed as a salesperson by a manufactured home dealer to sell manufactured homes or mobile homes.

(l) "Factory representative" means a representative employed by a manufactured home manufacturer for the purpose of making or promoting the sale of its new manufactured homes to new manufactured home dealers, or for advertising or contacting its new manufactured home dealers with respect to the promotion and sale of manufactured homes and parts or accessories for the same.

(m) "Manufactured home sales agreement" means a contract between the manufacturer of manufactured homes and a new manufactured home dealer, by which the dealer is entitled to purchase new manufactured homes from the manufacturer for resale within this state.

(n) "Broker" means any person who, for commission, money or other thing of value, is engaged in the business of:

(1) Selling or buying manufactured homes or mobile homes for other persons

as an agent, middleman or negotiator; or

(2) bringing together buyers and sellers of manufactured homes or mobile homes, but such term shall not include any person engaged in a business in which the acts described in this subsection are only incidentally performed.

(o) "Lending agency" means any person, desiring to be licensed under this act and engaged in the business of financing or lending money to any person to be used in the purchase or financing of a manufactured home or mobile home.

(p) "Established place of business" means a building or structure, other than a building or structure all or part of which is occupied or used as a residence, owned either in fee or leased and designated as an office or place to receive mail and keep records and conduct the routine of business. To qualify as an established place of business, there shall be located therein an operable telephone which shall be listed with the telephone company under the name of the licensee.

(q) "Supplemental place of business" means a business location other than that of the established place of business.

(r) "Licensee" means any person issued a valid license pursuant to the Kansas manufactured housing act.

(s) "Person" means any natural person, partnership, firm, corporation or association.

(t) "Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 58-4204a, and amendments thereto.

(u) "Apprentice installer" means a person who is licensed as an apprentice installer pursuant to this act.

(v) "Corporation" means the Kansas housing resources corporation, a not-for-profit subsidiary of the Kansas development finance authority incorporated pursuant to K.S.A. 74-8904(v).

(w) "Federal act" means the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. §§ 5401 et seq., and amendments thereto), as constituted on the effective date of this act.

(x) "Installation standards" means the standards adopted by the corporation for the installation and siting of manufactured homes.

(y) "Installer" means a person engaged in the business of installing manufactured homes.

(z) "Licensed installer" means an installer who has met the requirements set forth in this act and rules and regulations promulgated hereunder and has been issued a manufactured home installer's license by the president.

(aa) "Municipality" means any city or county in this state.

(bb) "President" means the president of the Kansas housing resources corporation.

58-4203. Same; manufactured housing not subject to certain laws and rules and regulations; movement on highways and streets, law applicable.

(a) Unless otherwise specifically provided in the Kansas manufactured housing act or other duly enacted statute of this state, manufactured homes and mobile homes shall not be subject to the laws, rules and regulations applicable to vehicles. Manufactured homes and mobile homes shall not be subject to the titling and registration requirements imposed by the statutes contained in article 1 of chapter 8 of the Kansas Statutes Annotated, and the manufacture, distribution and sale of manufactured homes and mobile homes shall not be subject to the vehicle dealers and manufacturers licensing act, as contained in K.S.A. 8-2401 et seq., and amendments thereto. Whenever a manufactured home or mobile home is moved

upon the public streets or highways of this state, such movement shall be governed by those provisions of the uniform act regulating traffic on highways as are applicable to the movement of house trailers upon the public streets and highways of this state.

(b) Unless otherwise specifically provided, the provisions of the Kansas manufactured housing act shall not apply to modular homes.

58-4204. Same; certificate of title, application and issuance; form of certificate of title; statement of origin; fees; notice of security interest; assignments of certificates of title; release of lien or encumbrance; electronic certificate of title.

(a) For purposes of this section, a manufactured home or mobile home shall be considered to be personal property.

(b) The provisions of this section shall apply to any electronic certificate of title, except to the extent such provisions are made inapplicable by or are inconsistent with K.S.A. 58-4204a, and amendments thereto, or with rules and regulations adopted pursuant to K.S.A. 58-4204a, and amendments thereto.

The provisions of this section shall apply to any certificate of title issued prior to January 1, 2003, which indicates that there is a lien or encumbrance on such manufactured home or mobile home.

(c) Upon the transfer or sale of any manufactured home or mobile home by any person or dealer, the new owner thereof, within 30 days, inclusive of weekends and holidays, from the date of such transfer or sale, shall make application to the division for the issuance of a certificate of title evidencing the new owner's ownership of such manufactured home or mobile home. An application for certificate of title shall be made by the owner of the manufactured home or mobile home, or the owner's agent, upon a form furnished by the division, and it shall state all liens or encumbrances thereon and such other information as the director may require. Notwithstanding any other provision of this section, no certificate of title shall be issued for a manufactured home or mobile home having any unreleased lien or encumbrance thereon, unless the transfer of such manufactured home or mobile home has been consented to in writing by the holder of the lien or encumbrance. Such consent shall be in a form approved by the director. The county treasurer shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and if satisfied that the applicant is the lawful owner of the manufactured home or mobile home, or otherwise entitled to have the certificate of title therefor issued in such applicant's name, shall so notify the division, who shall issue an appropriate certificate of title.

(d) The director shall design a distinctive certificate of title to be issued to owners of manufactured homes and mobile homes, so as to be distinguishable from certificates of title issued to owners of vehicles. The certificate of title shall contain a statement of any liens or encumbrances which the application discloses and shall provide such other information as the director determines necessary and appropriate. The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner. This assignment shall contain a statement of all liens or encumbrances on the manufactured home or mobile home at the time of assignment. When the ownership of any manufactured home or mobile home passes by operation of law or by repossession upon default of a lease, security agreement or executory sales contract, the person owning such manufactured home or mobile home, upon furnishing satisfactory proof to the county treasurer of such ownership, may procure a certificate of title to the manufactured home or mobile home.

(e) Dealers shall execute, upon delivery to the purchaser of every new manufactured home, a manufacturer's statement of origin stating the liens and encumbrances thereon. Such statement of origin shall be delivered to the purchaser at the time of delivery of the

manufactured home or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays. The agreement of the parties shall be executed on a form approved by the director. In the event delivery of title cannot be made personally, the seller may deliver the manufacturer's statement of origin by restricted mail to the address of the purchaser shown on the purchase agreement. The manufacturer's statement of origin may include an attachment containing assignment of such statement of origin on forms approved by the director. Upon the presentation to the division of a manufacturer's statement of origin, by a manufacturer or dealer for a new manufactured home, sold in this state, a certificate of title shall be issued.

(f) The fee for each original certificate of title shall be $10. The certificate of title shall be good for the life of the manufactured home or mobile home while owned or held by the original holder of the certificate of title.

(g) Upon sale and delivery to the purchaser of every manufactured home or mobile home subject to a purchase money security interest, as provided for in article 9 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto, the dealer or secured party may complete a notice of security interest and, when so completed, the purchaser shall execute the notice, in a form prescribed by the director, describing the manufactured home or mobile home and showing the name and address of the secured party and of the debtor and such other information as the director may require. The dealer or secured party may, within 30 days of the sale and delivery, mail or deliver the notice of security interest, together with a fee of $2.50, to the division. The notice of security interest shall be retained by the division, until it receives an application for a certificate of title to the manufactured home or mobile home and a certificate of title is issued. The certificate of title shall indicate any security interest in the manufactured home or mobile home. Upon issuance of the certificate of title, the division shall mail or deliver confirmation of the receipt of the notice of security interest, the date the certificate of title is issued and the security interest indicated, to the secured party at the address shown on the notice of security interest. The proper completion and timely mailing or delivery of a notice of security interest by a dealer or secured party shall perfect a security interest in the manufactured home or mobile home, as referenced in K.S.A. 2012 Supp. 84-9-311, and amendments thereto, on the date of such mailing or delivery.

(h) In the event of a sale or transfer of ownership of a manufactured home or mobile home for which a certificate of title has been issued, which certificate of title is in the possession of the transferor at the time of delivery of the manufactured home or mobile home, the holder of such certificate of title shall endorse on the same an assignment thereof, with warranty of title in a form prescribed by the director and printed thereon, and the transferor shall deliver the same to the buyer at the time of delivery to the buyer of the manufactured home or mobile home, or at a time agreed upon by the parties, not to exceed 30 days, inclusive of weekends and holidays, after the time of delivery. The sale of a mobile home or manufactured home by a manufactured home dealer without such delivery of an assigned certificate of title is fraudulent and void, and it shall constitute a violation of the Kansas manufactured housing act. The agreement of the parties shall be executed on a form provided by the division. The requirements of this subsection concerning delivery of an assigned title are satisfied, if the transferor mails to the transferee, by restricted mail, the assigned certificate of title within the 30 days, and if the transferor is a dealer, as defined by K.S.A. 58-4202, and amendments thereto, such transferor shall be deemed to have possession of the certificate of title, if the transferor has made application therefor to the division.

The buyer shall then present such assigned certificate of title to the division, and a new certificate of title shall be issued to the buyer upon payment of the fee of $10. If such

manufactured home or mobile home is sold to a resident of another state or country, the dealer or person making the sale shall notify the division of the sale and the division shall make notation thereof in the records of the division. If any manufactured home or mobile home is destroyed, dismantled or sold as junk, the owner shall immediately notify the division by surrendering the original or assigned certificate of title.

(i) When a person acquires a security agreement on a manufactured home or mobile home subsequent to the issuance of the original title on such manufactured home or mobile home, such person shall require the holder of the certificate of title to surrender the same and sign an application for a mortgage title in such form as prescribed by the director. Upon such surrender, the person shall immediately deliver the certificate of title, application and a fee of $10 to the division. Upon receipt thereof the division shall issue a new certificate of title, showing the liens or encumbrances so created, but not more than two liens or encumbrances may be shown upon a title. The delivery of the certificate of title, application and fee to the division shall perfect such person's security interest in the manufactured home or mobile home described in the certificate of title, as referenced in K.S.A. 2012 Supp. 84-9-311, and amendments thereto. When a prior lienholder's name is removed from the title, there must be satisfactory evidence presented to the division that the lien or encumbrance has been paid. When the indebtedness to a lienholder, whose name is shown upon a title, is paid in full, such lienholder, within 10 days after written demand by restricted mail, shall furnish to the holder of the title a release of lien or execute such a release in the space provided on the title. For failure to comply with such a demand, the lienholder shall be liable to the holder of the title for $100 and also shall be liable for any loss caused to the holder by such failure. When the indebtedness to a lienholder, whose name is shown upon a title, is collected in full, such lienholder, within 30 days, shall furnish notice to the holder of title that such indebtedness has been paid in full and that such title may be presented to the lienholder at any time for release of lien.

(j) In the event of the sale of a manufactured home or mobile home under the order of a court, the officer conducting such sale shall issue to the purchaser a certificate naming the purchaser and reciting the facts of the sale, which certificate shall be prima facie evidence of the ownership of such purchaser for the purpose of obtaining a certificate of title to such manufactured home or mobile home. Any such purchaser shall be allowed 30 days, inclusive of weekends and holidays, from the date of sale to make application to the division for a certificate of title.

(k) Any dealer who has acquired a manufactured home or mobile home, the title for which was issued under the laws of and in a state other than the state of Kansas, shall not be required to retain a Kansas certificate of title therefor during the time such manufactured home or mobile home remains in such dealer's possession and at such dealer's established or supplemental place of business for the purpose of sale. Upon the sale of any such manufactured home or mobile home, the dealer immediately shall deliver to the purchaser or transferee the certificate of title issued by the other state, properly endorsed and assigned to the purchaser or transferee, together with an affidavit executed by the dealer setting forth:

(1) That the dealer warrants to the purchaser or transferee and all other persons who claim through the purchaser or transferee that, at the time of the sale transfer and delivery by the dealers, the manufactured home or mobile home was free and clear of all liens, mortgages and other encumbrances, except those otherwise appearing on the title;

(2) the information shown on the title relating to all previous assignments, including the names of all previous titleholders shown thereon; and

(3) that the dealer has the right to sell and transfer the manufactured home or

mobile home.

58-4204a. Electronic certificates of title.

(a) On and after January 1, 2003, when an assignment of title or manufacturer's statement of origin indicates that there is a lien or encumbrance on a manufactured home or mobile home or if a notice of security interest has been filed with the division, the division shall retain possession of such certificate of title electronically and shall create an electronic certificate of title. The provisions of K.S.A. 58-4201, *et seq.*, and amendments thereto, shall apply to an electronic certificate of title, except as otherwise provided by statute or by rules and regulations adopted pursuant to subsection (b).

(b) The secretary of revenue is hereby authorized to adopt rules and regulations necessary to carry out the provisions of this section.

58-4205. Same; public policy regarding regulation of persons engaged in the manufacture, distribution, sale or installation of manufactured or mobile homes.

It is hereby declared to be the public policy of this state to provide for fair and impartial regulation of those persons engaged in manufacturing, distributing or selling of manufactured homes or mobile homes and the installation of manufactured homes. The provisions of the Kansas manufactured housing act which are applicable to such activities shall be administered in such a manner as will continue to promote fair dealing and honesty in the manufactured home and mobile home industry and among those engaged therein without unfair or unreasonable discrimination or undue preference or advantage. It is further declared to be the policy of this state to protect the public interest in the purchase and trade of manufactured homes and mobile homes and the installation of manufactured homes, so as to insure protection against irresponsible vendors and installers and dishonest or fraudulent sales and installation practices.

58-4206. Same; compliance with law required to engage in the business of manufactured home dealer.

No person shall engage in the business of a manufactured home dealer unless such person has complied with the applicable provisions of the Kansas manufactured housing act. The director shall issue the licenses provided for herein and shall have supervision over the licensees hereunder in respect to all the provisions of the act.

58-4207. Same; requirements for licensure as a manufactured home dealer; application, contents, term of license; fees; financial responsibility requirements, bonding; place of business requirements.

(a) No manufactured home dealer shall engage in business in this state without obtaining a license therefor. Any person holding a valid dealer's license and acting as a salesperson shall not be required to secure a salesperson's license.

(b) No manufactured home manufacturer or factory representative shall engage in business in this state without a license as required by this act, regardless of whether or not an office or other place of business is maintained in this state for the purpose of conducting such business.

(c) An application for a license shall be made to the director and shall contain the information provided for by this section, together with such other information as may be deemed reasonable and pertinent, and shall be accompanied by the required fee. The director may require in the application, or otherwise, information relating to the applicant's solvency, financial standing or other pertinent matter commensurate with the safeguarding

of the public interest in the locality in which the applicant proposes to engage in business, all of which may be considered by the director in determining the fitness of the applicant to engage in business as set forth in this section. The director may require the applicant for licensing to appear at such time and place as may be designated by the director for examination to enable the director to determine the accuracy of the facts contained in the written application, either for initial licensure or renewal thereof. Every application under this section shall be verified by the applicant.

(d) All licenses shall be granted or refused within 30 days after application is received by the director. All licenses, except licenses issued to manufactured home salespersons, shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which they are granted, except that where a complaint respecting the cancellation, termination or nonrenewal of a sales agreement is in the process of being heard, no replacement application shall be considered until a final order is issued by the director. Applications for renewals, except for renewals of licenses issued to salespersons, received by the director after February 15 shall be considered as new applications. All salesperson's licenses shall expire, unless previously suspended or revoked, on June 30 of the calendar year for which they are granted. Applications for renewals of salesperson's licenses received by the director after July 15 shall be considered as new applications.

(e) License fees for each calendar year, or any part thereof, shall be as follows:

(1) For new manufactured home dealers, $50;

(2) for used manufactured home dealers, $50;

(3) for manufactured home manufacturers, $200 plus $50 for each branch in this state;

(4) for factory representatives, $25;

(5) for brokers, $50;

(6) for lending agencies, $25;

(7) for manufactured home salespersons, $15; and

(8) for insurance companies, $50.

Any new manufactured home dealer who also is licensed as a used manufactured home dealer shall be required to pay only one $50 fee for both licenses.

(f) Dealers establishing supplemental places of business within the same county of their licensure shall be required to pay a supplemental license fee of $10. Original inspections by the division of a proposed established place of business shall be made at no charge, except that a $5 fee shall be charged by the division for each additional inspection the division must make of such premises in order to approve the same.

(g) The license of all persons licensed under the provisions of the Kansas manufactured housing act shall state the address of the established place of business, office or branch and must be conspicuously displayed therein. If such address is changed, the director shall endorse the change of address on the license without charge, if it is within the same county. A change of address to a different county shall require a new license and payment of the required fees.

(h) Every salesperson or factory representative shall carry on their person a certification that the person holds a valid state license. The certification shall name the person's employer and shall be displayed upon request. An original copy of the state license for a salesperson shall be mailed or otherwise delivered by the division to the employer of the salesperson for public display in the employer's established place of business. When a salesperson ceases to be employed as such, the former employer shall mail or otherwise return the original copy of the employee's state license to the division. A salesperson or factory representative who terminates employment with one employer may file an application

with the director to transfer the person's state license in the name of another employer. The application shall be accompanied by a $2 transfer fee. A salesperson or factory representative who terminates employment, and does not transfer the state license, shall mail or otherwise return the certification that the person holds a valid state license to the division.

(i) If the director has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this act, the director may require the applicant or licensee to furnish and maintain a bond in such form, amount and with such sureties as the director approves, but such amount shall be not less than $5,000 nor more than $20,000, conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee and as indemnity for any loss sustained by any person by reason of any act by the licensee constituting grounds for suspension or revocation of the license. Every bond shall be a corporate surety bond issued by a company authorized to do business in the state of Kansas and shall be executed in the name of the state of Kansas for the benefit of any aggrieved party. The aggregate liability of the surety for all breaches of the conditions of the bond in no event shall exceed the amount of such bond. The surety on the bond shall have the right to cancel the bond by giving 30 days' notice to the director, and thereafter the surety shall be relieved of liability for any breach of condition occurring after the effective date of cancellation. Bonding requirements shall not apply to salespersons. The proceeds of the bond on deposit or in lieu of bond provided by subsection (j) shall be paid upon receipt by the director of a final judgment from a Kansas court of competent jurisdiction against the dealer and in favor of an aggrieved party.

(j) An applicant or licensee may elect to satisfy the bonding requirements of subsection (i) by depositing with the state treasurer cash, negotiable bonds of the United States or of the state of Kansas, negotiable certificates of deposit of any bank organized under the laws of the United States or of the state of Kansas or irrevocable letters of credit of any such bank. The cash deposit or market value of any such securities shall be equal to or greater than the amount of the bond required for the bonded area and any interest on those funds shall accrue to the benefit of the depositor.

(k) No license shall be issued by the director to any person to act as a new or used dealer or broker, unless the applicant maintains an established place of business which has been inspected and approved by the division.

(l) Dealers required under the provisions of this act to maintain an established place of business shall own or have leased and use sufficient lot space at the established place of business and any supplemental place of business to display the dealer's inventory of manufactured homes or mobile homes.

(m) A sign with durable lettering at least 10 inches in height and easily visible from the street identifying the established place of business shall be displayed by every dealer. Notwithstanding the other provisions of this subsection, the height of lettering of the required sign may be less than 10 inches as necessary to comply with local zoning regulations.

(n) If the established or supplemental place of business or lot is zoned, approval must be secured from the proper zoning authority and proof that the use complies with the applicable zoning law, ordinance or resolution must be furnished to the director by the applicant for licensing.

(o) An established or supplemental place of business, otherwise meeting the requirements of the Kansas manufactured housing act, may be used by a dealer to conduct more than one business as long as suitable space and facilities exist therein to properly conduct the business of a manufactured home dealer.

(p) If a supplemental place of business is not operated on a continuous, year-round

basis, the dealer shall give the department 15 days' notice as to the dates on which the dealer will be engaged in business at the supplemental place of business.

(q) Any dealer selling, exchanging or transferring or causing to be sold, exchanged or transferred new manufactured homes in this state must satisfactorily demonstrate to the director that such dealer has a bona fide manufactured home sales agreement with the manufacturer to sell, exchange or transfer the same or to cause it to be sold, exchanged or transferred.

(r) The director of vehicles shall publish a suitable Kansas manufactured home salesperson's manual. Before a salesperson's license is issued, the applicant for an original license or renewal thereof shall be required to pass a written examination based upon information in the manual.

(s) The annual fee for each dealer license plate is $25. There shall be no refund of fees for dealer license plates in the event of suspension, revocation or voluntary cancellation of a license. The director is hereby authorized to designate by identifying symbols on a dealer's license plate the types of dealer's licenses that the person has been issued. If a dealer has an established place of business in more than one county, such dealer shall secure a separate and distinct dealer's license and dealer license plates for each established place of business.

58-4208. Same; dealer's license issuance and renewal conditional upon insurance; requirements of insurance.

No dealer's license shall be issued or renewed unless the applicant or holder of the license shall have on file with the division an approved insurance policy, issued by an insurance carrier authorized to transact business within the state of Kansas. The term of the policy shall be continuous and shall remain in full force and effect until cancelled under proper notice. All policies must be issued in the name of the holder or applicant for the dealer's license and shall provide public liability and property damage insurance for the movement of any manufactured home or mobile home or the inspection thereof by prospective purchasers, owned or being offered for sale by the dealer when being moved or inspected by the owner or seller, the seller's agent, servants, employees, prospective customers or other persons. The limits of liability shall correspond to the amount required by law in this state for bodily injury or death of any one person, bodily injury or death in any one accident and property damage. Such insurance may not be cancelled unless 30 days' notice by the insurance carrier has been given in writing to the director. Upon the effective date of cancellation of any insurance policy required under this section, the license to engage in business as a dealer shall be void.

58-4209. Same; manufactured home sales agreements, required contents.

A manufactured home sales agreement required by this act shall:

(a) Be in writing;

(b) provide that the manufactured home dealer shall have authority to sell and service the manufacturer's product;

(c) set forth the agreement of the parties by which the amount of compensation paid to the dealer for performing warranty work for the manufacturer is to be determined;

(d) provide for such continuing compensation to the dealer for performing warranty work on the manufacturer's product sold by the dealer, if such work is performed after termination, cancellation or nonrenewal of the sales agreement and during any period that the manufacturer's warranty extends to the product;

(e) provide that, except in the case of actual fraud, either party shall give the other

at least 30 days' written notice of its intent to terminate, cancel or not renew the sales agreement; and

(f) provide for the repurchase of the dealer's inventory by the manufacturer who supplied such inventory in the event of termination, cancellation or nonrenewal of the sales agreement.

58-4210. Same; dealer's license requirements.

Except as hereinafter provided, every person licensed as a dealer shall:

(a) On or before the 20th day of each month, file a monthly report, on a form prescribed and furnished by the division, listing all sales or transfers, except sales or transfers by a manufacturer to a dealer of new or used manufactured homes or mobile homes, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the manufactured home or mobile home, and such other information as the division may require.

(b) Make available during regular business hours to any employee of the division or any member of the highway patrol, for the purpose of investigation or inspection, all records concerning manufactured homes or mobile homes purchased, sold or exchanged during the preceding 12 months, including certificates of title on all manufactured homes or mobile homes owned by the dealership.

(c) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the division and return the dealer's license and dealer license plates, and the division upon receipt of such notice and plates shall cancel the dealer's license, except that such dealer may, upon payment of 50% of the annual fee to the division, have the license and dealer license plates assigned to the purchaser of the business.

(d) In addition to the requirements of subsection (a), any dealer paying a commission or fee to a broker shall report to the division, on the monthly sales report, the name of the broker and the broker's license number.

(e) In addition to the requirements of subsection (a), dealers licensed as brokers must include on the monthly sales reports, the name of the seller, the transferor or dealer that owns the manufactured home or mobile home and whether the seller or the purchaser paid the broker's fee or commission.

(f) Lending agencies licensed under this act, which sell two or less repossessed manufactured homes or mobile homes a month, shall not be required to file the monthly reports under subsection (a), except that such lending agencies shall report annually, on a form prescribed and furnished by the division, the total number of sales or transfers of such manufactured homes or mobile homes.

58-4211. Same; denial, suspension and revocation of licenses, when; procedure; civil penalties.

(a) A license may be denied, suspended or revoked or a renewal may be refused by the director on any of the following grounds:

(1) Proof of financial unfitness of the applicant;

(2) material false statement in an application for a license;

(3) filing a materially false or fraudulent tax return as certified by the director of taxation;

(4) negligently failing to comply with any applicable provision of the Kansas manufactured housing act or any applicable rule or regulation adopted pursuant thereto;

(5) knowingly defrauding any retail buyer to the buyer's damage;

(6) negligently failing to perform any written agreement with any buyer;

(7) failure or refusal to furnish and keep in force any required bond;

(8) knowingly making a fraudulent sale or transaction;

(9) knowingly engaging in false or misleading advertising;

(10) willful misrepresentation, circumvention or concealment, through a subterfuge or device, of any material particulars, or the nature thereof, required by law to be stated or furnished to the retail buyer;

(11) negligent use of fraudulent devices, methods or practices in contravention of law with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(12) knowingly violating any law relating to the sale, distribution or financing of manufactured homes or mobile homes, as the case may be;

(13) being a manufactured home manufacturer or factory representative, officer, agent or any representative thereof, who has:

(A) Induced or has attempted to induce, by coercion, intimidation or discrimination, any dealer to involuntarily accept delivery of any manufactured home or mobile home, parts or accessories therefor, or any form of advertisements or other commodities which shall not have been ordered by the dealer;

(B) unfairly, without due regard to the equities of the dealer, and without just provocation, canceled, terminated or failed to renew a manufactured home sales agreement with any new manufactured home dealer;

(C) induced, or has attempted to induce, by coercion, intimidation or discrimination, any dealer to involuntarily enter into any manufactured home sales agreement with such manufacturer, factory branch or any representative thereof, or to do any other act to a dealer which may be deemed a violation of the Kansas manufactured housing act, or the rules and regulations adopted or orders promulgated under authority of this act, by threatening to cancel or not renew a manufactured home sales agreement existing between such parties;

(14) being a manufacturer who fails to specify in writing for the protection of the buying public the delivery and preparation obligations of its dealers prior to delivery of new manufactured homes or mobile homes to new manufactured home dealers. A copy of such writing shall be filed with the division by every licensed manufacturer of manufactured homes and the contents thereof shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body or parts defects arising from any express or implied warranties of the manufacturer shall constitute the product or warranty liability of the manufacturer. The manufacturer shall reasonably compensate any authorized dealer for the performance of delivery and preparation obligation;

(15) being a manufactured home manufacturer or factory branch who fails to supply a new manufactured home dealer with a reasonable quantity of new manufactured homes, parts and accessories, in accordance with the manufactured home sales agreement. It shall not be deemed a violation of the Kansas manufactured housing act, if such failure is attributable to factors reasonably beyond the control of such manufacturer or factory branch;

(16) knowingly used or permitted the use of dealer license plates contrary to law;

(17) has failed or refused to permit an agent of the division, during the licensee's regular business hours, to examine or inspect such dealer's records pertaining to titles and purchases and sales of manufactured homes and mobile homes;

(18) failure to notify the division within 10 days of dealer's plates that have been lost, stolen, mutilated or destroyed;

(19) failure or refusal to surrender a dealer's license or dealer's plates to the division or its agent upon demand;

(20) has demonstrated that such person is not of good character and reputation in the community in which the dealer resides;

(21) has, within five years immediately preceding the date of making application, been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of the violations of any law of any state or the United States in connection with such person's operation as a dealer or salesperson;

(22) has cross-titled a title to any purchaser of any manufactured home or mobile home. Cross-titling shall include, but not by way of limitation, a dealer or broker or the authorized agent of either selling or causing to be sold, exchanged or transferred any manufactured home or mobile home and not showing a complete chain of title on the papers necessary for the issuance of title for the purchaser. The selling dealer's name must appear on the assigned manufacturer's statement of origin or reassigned certificate of title;

(23) has changed the location of such person's established place of business prior to approval of such change by the division;

(24) having in such person's possession a certificate of title which is not properly completed, otherwise known as an "open title";

(25) failure to provide adequate proof of ownership for manufactured homes and mobile homes in the dealer's possession.

(b) The director may deny the application for a license within 30 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 applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(c) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of its salespersons or representatives while acting as its agents.

(d) When any licensee is found to be allegedly violating any of the applicable provisions of the Kansas manufactured housing act, or any order or rule and regulation adopted pursuant thereto, the director, upon the director's own motion or upon complaint, may commence a hearing against the licensee, which hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(e) Any person who is found to have violated any applicable provisions of the Kansas manufactured housing act, any rule and regulation adopted pursuant thereto or any applicable order of the director shall be subject to a civil penalty of not less than $50 nor more than $1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation.

(f) Any licensee or other person aggrieved by a final order of the director may appeal

to the district court as provided by the Kansas judicial review act.

(g) The revocation or suspension of a manufacturer's license may be limited to one or more municipalities or counties or any other defined trade area.

58-4212. Same; state manufactured home construction and safety standards identical to federal standards, exception.

Whenever a federal manufactured home construction and safety standard established pursuant to 42 U.S.C. § 5401 *et seq*., is in effect, no state agency or political subdivision shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the federal manufactured home construction and safety standard. Nothing in this section shall prohibit the adoption or enforcement of a construction or safety standard by a state agency or political subdivision applicable to a building which is open to the public for the purpose of providing services or products to the public.

79-3601. Title of act; additional to certain other taxes.

This act shall be known as the "Kansas retailers' sales tax act" and the tax herein imposed shall be in addition to all other occupation or privilege taxes imposed by the state of Kansas or by any municipal corporation or by any political subdivision thereof.

79-3603. Retailers' sales tax imposed; rate.

For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 5.3%, and commencing July 1, 2010, at the rate of 6.3%, and commencing July 1, 2013, at the rate of 5.7%. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project upon:

(a) The gross receipts received from the sale of tangible personal property at retail within this state;

(b) the gross receipts from intrastate, interstate or international telecommunications services and any ancillary services sourced to this state in accordance with K.S.A. 2012 Supp. 79-3673, and amendments thereto, except that telecommunications service does not include:

(1) Any interstate or international 800 or 900 service;

(2) any interstate or international private communications service as defined in K.S.A. 2012 Supp. 79-3673, and amendments thereto;

(3) any value-added nonvoice data service;

(4) any telecommunication service to a provider of telecommunication services which will be used to render telecommunications services, including carrier access services; or

(5) any service or transaction defined in this section among entities classified as members of an affiliated group as provided by section 1504 of the federal internal revenue code of 1986, as in effect on January 1, 2001;

(c) the gross receipts from the sale or furnishing of gas, water, electricity and heat, which sale is not otherwise exempt from taxation under the provisions of this act, and whether

furnished by municipally or privately owned utilities, except that, on and after January 1, 2006, for sales of gas, electricity and heat delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises, and for agricultural use and also, for such use, all sales of propane gas, the state rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises, the state rate shall be 0%, but such tax shall not be levied and collected upon the gross receipts from:

(1) The sale of a rural water district benefit unit;

(2) a water system impact fee, system enhancement fee or similar fee collected by a water supplier as a condition for establishing service; or

(3) connection or reconnection fees collected by a water supplier;

(d) the gross receipts from the sale of meals or drinks furnished at any private club, drinking establishment, catered event, restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public;

(e) the gross receipts from the sale of admissions to any place providing amusement, entertainment or recreation services including admissions to state, county, district and local fairs, but such tax shall not be levied and collected upon the gross receipts received from sales of admissions to any cultural and historical event which occurs triennially;

(f) the gross receipts from the operation of any coin-operated device dispensing or providing tangible personal property, amusement or other services except laundry services, whether automatic or manually operated;

(g) the gross receipts from the service of renting of rooms by hotels, as defined by K.S.A. 36-501, and amendments thereto, or by accommodation brokers, as defined by K.S.A. 12-1692, and amendments thereto, but such tax shall not be levied and collected upon the gross receipts received from sales of such service to the federal government and any agency, officer or employee thereof in association with the performance of official government duties;

(h) the gross receipts from the service of renting or leasing of tangible personal property except such tax shall not apply to the renting or leasing of machinery, equipment or other personal property owned by a city and purchased from the proceeds of industrial revenue bonds issued prior to July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, and any city or lessee renting or leasing such machinery, equipment or other personal property purchased with the proceeds of such bonds who shall have paid a tax under the provisions of this section upon sales made prior to July 1, 1973, shall be entitled to a refund from the sales tax refund fund of all taxes paid thereon;

(i) the gross receipts from the rendering of dry cleaning, pressing, dyeing and laundry services except laundry services rendered through a coin-operated device whether automatic or manually operated;

(j) the gross receipts from the rendering of the services of washing and washing and waxing of vehicles;

(k) the gross receipts from cable, community antennae and other subscriber radio and television services;

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

(2) Any such contractor, subcontractor or repairman who maintains an inventory of such property both for sale at retail and for use by them for the purposes described by paragraph (1) shall be deemed a retailer with respect to purchases for

and sales from such inventory, except that the gross receipts received from any such sale, other than a sale at retail, shall be equal to the total purchase price paid for such property and the tax imposed thereon shall be paid by the deemed retailer;

(m) the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities, but such tax shall not be levied and collected upon the gross receipts received from:

(1) Fees and charges by any political subdivision, by any organization exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-201, and amendments thereto, or by any youth recreation organization exclusively providing services to persons 18 years of age or younger which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for participation in sports, games and other recreational activities; and

(2) entry fees and charges for participation in a special event or tournament sanctioned by a national sporting association to which spectators are charged an admission which is taxable pursuant to subsection (e);

(n) the gross receipts received from dues charged by public and private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from:

(1) Dues charged by any organization exempt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of K.S.A. 79-201, and amendments thereto; and

(2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including:

(1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; or

(2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or

(3) the sale of motor vehicles or trailers which are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of clause (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation

required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than $10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

(p) the gross receipts received for the service of installing or applying tangible personal property which when installed or applied is not being held for sale in the regular course of business, and whether or not such tangible personal property when installed or applied remains tangible personal property or becomes a part of real estate, except that no tax shall be imposed upon the service of installing or applying tangible personal property in connection with the original construction of a building or facility, the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a residence or the construction, reconstruction, restoration, replacement or repair of a bridge or highway.

For the purposes of this subsection:

(1) "Original construction" shall mean the first or initial construction of a new building or facility. The term "original construction" shall include the addition of an entire room or floor to any existing building or facility, the completion of any unfinished portion of any existing building or facility and the restoration, reconstruction or replacement of a building, facility or utility structure damaged or destroyed by fire, flood, tornado, lightning, explosion, windstorm, ice loading and attendant winds, terrorism or earthquake, but such term, except with regard to a residence, shall not include replacement, remodeling, restoration, renovation or reconstruction under any other circumstances;

(2) "building" shall mean only those enclosures within which individuals customarily are employed, or which are customarily used to house machinery, equipment or other property, and including the land improvements immediately surrounding such building;

(3) "facility" shall mean a mill, plant, refinery, oil or gas well, water well, feedlot or any conveyance, transmission or distribution line of any cooperative, nonprofit, membership corporation organized under or subject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or municipal or quasi-municipal corporation, including the land improvements immediately surrounding such facility;

(4) "residence" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility; and

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization;

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such services are rendered is not being held for sale in the regular course of business, and whether or not any tangible personal property is transferred in connection therewith. The tax imposed by this subsection shall be applicable to the services of repairing, servicing, altering or maintaining an item of tangible personal property which has been and is fastened to, connected with or built into real property;

(r) the gross receipts from fees or charges made under service or maintenance agreement contracts for services, charges for the providing of which are taxable under the provisions of subsection (p) or (q);

79-3604. Tax paid by consumer and collected by retailer; exceptions; fee.

The tax levied under the Kansas retailers' sales tax act shall be paid by the consumer or user to the retailer and it shall be the duty of each and every retailer in this state to collect from the consumer or user, the full amount of the tax imposed or an amount equal as nearly as possible or practicable to the average equivalent thereof. Such tax shall be a debt from the consumer or user to the retailer, when so added to the original purchase price, and shall be recoverable at law in the same manner as other debts, except that the tax levied on isolated or occasional sales of motor vehicles or trailers within the state and upon the sales of taxable tangible personal property or services when the director shall determine the same to be necessary as hereinafter provided shall be paid and collected as herein provided for.

The tax on such isolated or occasional sales shall be paid to the director of taxation by the purchaser of the motor vehicle or trailer or to the county treasurer upon application for certificate of registration or ownership. The purchaser shall sign and present to the county treasurer or director of taxation a statement specifying the true and correct selling price of the motor vehicle or trailer and containing a warning to the purchaser of the consequences of making false statements or information or presenting falsified documents related thereto. Such statement shall be in a form promulgated by the director of taxation. If payment is made to the director of taxation, the director shall issue a receipt therefor. If the sales tax is not paid to the director of taxation, the county treasurer, upon application for certificate of registration or ownership, shall collect such sales tax payment from the applicant. The county treasurer shall charge the applicant a collection service fee of $.50, and shall give the applicant a receipt showing the tax and fee paid in full. The county treasurer shall transmit monthly all such sales tax moneys collected to the director of taxation and shall place the fees collected in the special fund provided in K.S.A. 8-145, and amendments thereto, to be used for the purpose of paying necessary extra help and expenses.

Whenever the director of taxation determines that in the retail sale of any tangible personal property or services because of the nature of the operation of the business including the turnover of independent contractors, the lack of a place of business in which to display a registration certificate or keep records, the lack of adequate records or because such retailers are minors or transients there is a likelihood that the state will lose tax funds due to the difficulty of policing such business operations, it shall be the duty of the vendor to such person to collect the full amount of the tax imposed by this act and to make a return and payment of the tax to the director of taxation in like manner as that provided for the making of returns and the payment of taxes by retailers under the provisions of this act. The director shall notify the vendor or vendors to such retailer of the duty to collect and make a return and payment of the tax.

In the event the full amount of the tax provided by this act is not paid to the retailer by the consumer or user, the director of taxation may proceed directly against the consumer or user to collect the full amount of the tax due on the retail sale.

KANSAS REGULATIONS PERTAINING TO KANSAS VEHICLE DEALERS

92-50-42 Sales prima facie evidence of engaging in business; motor vehicle dealer license required.

The sale of five (5) or more motor vehicles in any one (1) calendar year shall be prima facie evidence that a person is engaged in the business of selling motor vehicles and, unless rebutted or overcome by other evidence, shall require that person to obtain a motor vehicle dealer's license. A person shall be entitled to a hearing conducted in accordance with K.S.A. 1980 Supp. 8-2411 to rebut this evidence**.**