

JAN 20 2012

---

---

# A BILL FOR AN ACT

RELATING TO THE MOTOR VEHICLE INDUSTRY LICENSING ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 437, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§437-    Release of motor vehicles from auction.    Prior to  
5 the transfer of any motor vehicle to a dealer pursuant to an  
6 auction, the motor vehicle shall be insured as required under  
7 section 431:10C-104."

8           SECTION 2. Section 437-7, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10          "(d) Requirement for lines of credit shall be as follows:

11          (1) Applicants for issuance of a dealer's license shall  
12             obtain an inventory or flooring line of credit from a  
13             federally insured financial institution or from a  
14             financing source having a net worth of at least  
15             \$50,000,000. The line of credit shall be in the  
16             following amount:



- 1 (A) For new motor vehicle dealer applicants, \$500,000  
2 or the amount required in the applicant's dealer  
3 sales and service agreement, whichever is less;
- 4 (B) For used motor vehicle dealer applicants,  
5 \$50,000; and
- 6 (C) For new and used motorcycle and motor scooter  
7 dealer applicants, \$50,000;
- 8 (2) Applicants for issuance of a dealer's license shall  
9 provide the board with a photocopy of the financing  
10 statement filed at the bureau of conveyances of the  
11 department of land and natural resources, securing the  
12 line of credit;
- 13 (3) Applicants for the issuance of an auction license  
14 shall obtain a secured line of credit in the amount of  
15 \$100,000 from a federally insured financial  
16 institution; and
- 17 (4) ~~[When an inventory or flooring line of credit cannot~~  
18 ~~reasonably be obtained by a dealer, the board may~~  
19 ~~provide that a bond, in an amount set forth in the~~  
20 ~~board's rules, be obtained as an alternative form of~~  
21 ~~security for the inventory or flooring line of~~  
22 ~~credit.] In lieu of a flooring line of credit~~



1           pursuant to paragraph (1), dealers of used motor  
2           vehicles and new and used motorcycles and motor  
3           scooters may submit a bond in an amount as determined  
4           by the board, but not to exceed \$100,000; provided  
5           that the bond shall be obtained on similar terms and  
6           conditions as required of brokers under section 437-  
7           18."

8           SECTION 3. Section 437-11, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10           "(a) Requirements to be met before issuance of dealer's  
11 and auction's license.

12           (1) The following requirements shall be met by an  
13 applicant for a dealer's license before a license may  
14 be issued by the motor vehicle industry licensing  
15 board:

16           (A) The applicant has a site that is zoned to allow  
17           the sale of motor vehicles which will be used  
18 primarily for the purpose of selling, displaying,  
19 offering for sale, or otherwise dealing in motor  
20 vehicles;

21           (B) The site has a permanent building thereon and  
22           space suitable for the display at any one time of



1 at least three motor vehicles having an average  
2 wheel base of at least ninety inches; [~~and~~]

3 (C) The site has suitable sanitation facilities; and

4 (D) The applicant presents proof of motor vehicle  
5 insurance required under section 431:10C-104 for  
6 each vehicle to be sold;

7 (2) The following requirements shall be met by an  
8 applicant for an auction's license before a license  
9 may be issued by the motor vehicle industry licensing  
10 board:

11 (A) The applicant has a permanent site which will be  
12 used primarily for the purpose of selling,  
13 displaying, offering for sale, or otherwise  
14 dealing in motor vehicles; and

15 (B) The site has suitable sanitation facilities."

16 SECTION 4. Section 437-18, Hawaii Revised Statutes, is  
17 amended by amending subsection (d) to read as follows:

18 "(d) The bond shall be subject to the following  
19 conditions:

20 (1) That the broker will faithfully and truly comply with  
21 all the valid provisions of this chapter as the same



1 now are or may hereafter be amended, and with any rule  
2 adopted by the board pursuant to this chapter;

3 (2) That the broker will not be guilty of fraud,  
4 misrepresentation, or other improper business conduct  
5 in connection with the selling, purchasing,  
6 negotiating for purchase, financing, or otherwise  
7 dealing with motor vehicles or any other property  
8 related thereto[7] with regard to any person, and will  
9 satisfy all judgments rendered against the broker  
10 based in whole or in part upon representations or  
11 warranties made in connection with any retail sale or  
12 negotiation for the purchase of a motor vehicle; and

13 (3) That the broker will protect the treasurer of the  
14 county and any purchaser of any vehicle or any person  
15 acquiring any lien thereon or successor in interest of  
16 any such person against any loss on account of any  
17 defect in or undisclosed encumbrance upon the title of  
18 any motor vehicle, registered by the treasurer in  
19 reliance upon any certificate, affidavit, or other  
20 representation of the dealer, or registration or  
21 transfer of registration procured by the broker."



1 SECTION 5. Section 437-29, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Where any applicant for a license or stockholder  
4 owning more than a ten per cent interest in the applicant or any  
5 officer, director, trustee, employee, or partner of the  
6 applicant has been guilty of any act or omission involving  
7 personal misconduct which by this chapter is made ground for  
8 refusing to issue a license or for revoking or suspending a  
9 license, such as the making of a false statement of a material  
10 fact in an application, the commission of a fraudulent act in  
11 connection with the sale or negotiation for the purchase of  
12 motor vehicles, and the like, the board shall have discretion,  
13 nevertheless, to issue the license or suspend or reject the  
14 revocation of the license, upon such reasonable conditions,  
15 including the furnishing of an additional bond [~~not exceeding~~  
16 ~~\$5,000, as to future good conduct of the applicant and other~~  
17 ~~person concerned, as the board determines,]~~ requirement in an  
18 amount not to exceed fifty per cent of the applicable line of  
19 credit under section 437-7(d) (1) for a period not to exceed  
20 three years; provided the board finds:



- 1 (1) That there are extenuating circumstances that indicate
- 2 that the act or omission was not due to moral
- 3 turpitude; [øx]
- 4 (2) That a reasonable time fixed by rule of the board, not
- 5 less than one year, has elapsed since the act or
- 6 omission occurred, together with evidence of the
- 7 person's rehabilitation or general good character,
- 8 sufficient to indicate that the person is not likely
- 9 to repeat the offense or engage in illegal, unlawful,
- 10 or unconscionable practices; or
- 11 (3) That the favorable action by the board will not
- 12 jeopardize the public interest."

13 SECTION 6. Statutory material to be repealed is bracketed  
 14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.

16

INTRODUCED BY:

*Mike Hubbard*

*Alvin R.*

*Randy & Bob*

*Clarena Reshika*

*Travis Calver*

*Amos Mendoza K.*



# S.B. NO. 2296

**Report Title:**

Motor Vehicle Industry Licensing Act

**Description:**

Requires motor vehicles to be insured prior to release from auction. Amends requirements to obtain a dealer license. Amends bond requirements in lieu of a flooring line of credit.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

