

IN THE SENATE

SENATE BILL NO. 1361, As Amended

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO DEALERS AND SALESMEN LICENSING; AMENDING SECTION 49-1602,
2 IDAHO CODE, TO DELETE REFERENCE TO AN OPEN BOOK EXAMINATION AND TO
3 PROVIDE EDUCATION REQUIREMENTS RELATING TO A PRELICENSING CLASS OR
4 PROGRAM; AND AMENDING SECTION 49-1637, IDAHO CODE, TO DELETE REFERENCE
5 TO A COMPREHENSIVE OPEN BOOK EXAMINATION AND TO REVISE PROVISIONS
6 RELATING TO EDUCATION REQUIREMENTS FOR VEHICLE DEALERS; AND PROVIDING
7 AN EFFECTIVE DATE.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 49-1602, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 49-1602. ADMINISTRATION -- POWERS AND DUTIES. The department shall:

13 (1) Issue, and for reasonable cause shown, refuse to issue an applicant
14 any license authorized under the provisions of this chapter. The department
15 may refuse to issue a license to any applicant, other than a partnership or
16 corporation, if the applicant fails to comply with the terms and provisions
17 of this chapter or the rules of the board, or if the applicant has been
18 convicted of a violation of any of the provisions of this chapter or chapter
19 5, title 49, or section 49-1418 or chapter 6, title 48, Idaho Code, or of any
20 federal odometer law or regulation. Should the applicant be a partnership or
21 a corporation, the department may refuse to issue a license to the applicant
22 where it determines that one (1) or more of the partners of a partnership,
23 or one (1) or more of the stockholders or officers of a corporation, was
24 previously the holder of a license which was revoked or suspended, and the
25 license revoked never reissued or the suspended license never reinstated,
26 or that one (1) or more of the partners, stockholders, or officers, though
27 not previously the holder of a license, has violated any of the provisions
28 of this chapter or of an applicable rule or regulation, or of federal motor
29 vehicle safety standards.

30 (2) For just cause shown, revoke or suspend, on terms, conditions,
31 and for a period of time as the department shall consider fair and just,
32 any license or licenses issued pursuant to the provisions of this chapter.
33 No license shall be revoked or suspended unless it shall be shown that the
34 licensee has violated a provision of this chapter or of an applicable rule or
35 regulation, or of federal motor vehicle safety standards.

36 (3) On its own motion, upon the sworn complaint of any person,
37 investigate any suspected or alleged violation by a licensee of any of the
38 provisions of this chapter or of an applicable rule or regulation.

39 (4) Prescribe forms for applications for licenses and qualifications
40 for an applicant for licensure. Every application for a license shall
41 contain, in addition to other information required by the department, the
42 following:

1 (a) The name and residence address of the applicant and the trade
2 name, if any, under which he intends to conduct his business. If the
3 applicant is a copartnership, the name and residence address of each
4 member, whether a limited or general partner, and the name under which
5 the partnership business is to be conducted. If the applicant is a
6 corporation, the name of the corporation and the name and address of
7 each of its principal officers and directors.

8 (b) A complete description, including the city with the street number,
9 of the principal place of business and any other and additional places
10 of business operated and maintained by the applicant in conjunction
11 with the principal place of business.

12 (c) Copies of any letters of franchise for new vehicles that the
13 applicant has been enfranchised to sell or exchange, and the name
14 or names and addresses of the manufacturer or distributor who has
15 enfranchised the applicant.

16 (d) Names and addresses of the persons who shall act as salesmen under
17 the authority of the license, if issued.

18 (e) A copy of the certificate of assumed business name, if required,
19 shall be filed with the secretary of state.

20 (f) For a manufacturer's license, the name or names and addresses
21 of each and every distributor, factory branch, and factory
22 representative.

23 (g) For a salesman's license, certification by the dealer by whom the
24 salesman will be employed, that he has examined the background of the
25 applicant, and to the best of the dealer's knowledge, is qualified to be
26 licensed under the sponsorship of the licensed dealer.

27 (h) Before a dealer who is not exempted from the continuing education
28 requirements as provided in section 49-1637(2), Idaho Code, may
29 apply for a renewal of a vehicle dealer's license, he shall provide
30 to the department a certification from an accredited educational
31 system, private vocational school, correspondence school or trade
32 association approved by the department stating that the vehicle dealer
33 has satisfied the four (4) hour continuing education requirements as
34 specified in section 49-1637(1), Idaho Code.

35 (i) Before any vehicle dealer's license is issued by the department
36 to an applicant who is not licensed with the department as a dealer
37 within the previous twelve (12) calendar months and who is not exempted
38 from the continuing education requirements as provided in section
39 49-1637(2), Idaho Code, the applicant shall provide to the department
40 a certification from an accredited educational institution, private
41 vocational school, correspondence school or trade association approved
42 by the department stating that the applicant has satisfactorily
43 completed the ~~open book examination~~ prelicensing class or program
44 requirement requirements, including a written examination of material
45 presented, specified in section 49-1637(1), Idaho Code.

46 (5) Refuse to issue any license under the provisions of this chapter if,
47 upon investigation, the department finds that any information contained in
48 the application is incomplete, incorrect or fictitious.

49 (6) Require that a dealer's principal place of business, and other
50 locations operated and maintained by him in conjunction with his principal

1 place of business, have erected or posted signs or devices providing
 2 information relating to the dealer's name, location and address of the
 3 principal place of business, and the number of the license held by the
 4 dealer.

5 (7) Provide for regular meetings of the dealer advisory board, to be
 6 held not less frequently than semiannually. Notices of meetings of the
 7 advisory board shall be mailed to all members not less than five (5) days
 8 prior to the date on which the meeting is to be held.

9 (8) Inspect, prior to licensing, the principal place of business and
 10 other sites or locations as may be operated and maintained by the applicant.

11 (9) Seek and consider the advisory board's recommendations and
 12 comments regarding proposed rules promulgated for the administration of the
 13 provisions of this chapter.

14 (10) Require the attendance of not less than one (1) or more than three
 15 (3) advisory board members at all hearings held relating to this chapter.

16 SECTION 2. That Section 49-1637, Idaho Code, be, and the same is hereby
 17 amended to read as follows:

18 49-1637. EDUCATION REQUIREMENTS FOR VEHICLE DEALERS. (1) Except
 19 as provided in subsection (2) of this section, the following continuing
 20 education requirements shall apply to a vehicle dealer for an initial
 21 dealer's license and for the annual renewal, as provided in sections
 22 49-1607(3) and 49-1634, Idaho Code, of a dealer's license:

23 (a) An applicant for an annual renewal of a dealer's license must
 24 complete a four (4) hour education program as described in subsection
 25 (3) of this section prior to submitting a renewal application for a
 26 vehicle or vessel dealer license.

27 (b) An applicant requesting an initial vehicle or vessel dealer's
 28 license shall be required to ~~pass a comprehensive open book~~ provide
 29 certification that he has completed a department approved prelicensing
 30 class or program, including an examination on the materials that were
 31 presented prior to submitting a license application.

32 (2) The education requirements of subsection (1) of this section do
 33 not apply to an applicant for a full-time or part-time vehicle salesman's
 34 license, manufacturer's license, distributor's license or wholesale
 35 dealer's license. The following applicants are also exempt from the
 36 provisions of subsection (1) of this section:

37 (a) A vehicle dealer of nationally advertised and recognized new motor
 38 vehicles or vessels; and

39 (b) A franchise dealer of new recreational vehicles, new motorcycles,
 40 new all-terrain vehicles, new snowmobiles or new vessels.

41 (3) The continuing education programs and ~~written open book~~
 42 examination prelicensing class requirements required in subsection (1)
 43 of this section shall be developed with input from motor vehicle industry
 44 organizations including, but not limited to, the Idaho independent
 45 automobile dealers association, and shall be approved by the department-;

46 (a) Prelicensing classes shall consist of eight (8) hours of
 47 instruction or as otherwise approved by the department, which shall
 48 include the written examination.

1 (b) Fees applicable to the prelicensing class shall not exceed three
2 hundred fifty dollars (\$350).

3 (c) Fees applicable to the dealer education program shall not exceed two
4 hundred dollars (\$200).

5 (d) Any provider as approved by the department shall make the dealer
6 education programs and prelicensing classes available on a monthly
7 basis, at a minimum.

8 (4) The continuing education programs and the prelicensing
9 class/programs required in subsection (1) of this section may be provided
10 by accredited educational institutions, private vocational schools,
11 correspondence schools or trade associations, provided that the continuing
12 education program ~~has~~ and prelicensing class/programs have been approved by
13 the department as required in subsection (3) of this section.

14 (5) The department may promulgate rules as necessary to implement the
15 provisions of this section.

16 SECTION 3. This act shall be in full force and effect on and after
17 January 1, 2011.