

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 131, As Amended

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-1602, IDAHO CODE, TO PROVIDE  
2 THAT THE IDAHO TRANSPORTATION DEPARTMENT MAY REFUSE TO ISSUE A DEALER OR  
3 SALESMAN LICENSE TO ANY APPLICANT WHO HAS BEEN CONVICTED OF ANY FELONY  
4 COMMITTED IN CONJUNCTION WITH A DEALERSHIP, TO PROVIDE THAT LICENSED  
5 MOTOR VEHICLE DEALERS AND SALESMEN CONVICTED OF CERTAIN OFFENSES SHALL  
6 NOT BE ELIGIBLE TO REAPPLY FOR A LICENSE UNTIL CERTAIN CONDITIONS ARE  
7 MET AND FOR SPECIFIED PERIODS OF TIME AND TO MAKE TECHNICAL CORRECTIONS.  
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 all license types to any applicant, other than a part-  
16 nership or corporation, if the applicant fails to comply with the terms and  
17 provisions of this chapter or the rules of the board, or if the applicant has  
18 been convicted of a violation of any of the provisions of this chapter, ~~or~~  
19 chapter 5, title 49, ~~or~~ Idaho Code, section 49-1418, ~~or~~ Idaho Code, chapter  
20 6, title 48, Idaho Code, any felony committed in conjunction with a dealer-  
21 ship or of any federal odometer law or regulation. Should the applicant be  
22 a partnership or a corporation, the department may refuse to issue a license  
23 to the applicant where it determines that one (1) or more of the partners of a  
24 partnership, or one (1) or more of the stockholders or officers of a corpora-  
25 tion, was previously the holder of a license which was revoked or suspended,  
26 and the license revoked never reissued or the suspended license never rein-  
27 stated, or that one (1) or more of the partners, stockholders, or officers,  
28 though not previously the holder of a license, has violated any of the pro-  
29 visions of this chapter or of an applicable rule or regulation, or of federal  
30 motor vehicle safety standards.

31 (2) For just cause shown, revoke or suspend, on terms, conditions, and  
32 for a period of time as the department shall consider fair and just, any li-  
33 cense or licenses issued pursuant to the provisions of this chapter. No li-  
34 cense shall be revoked or suspended unless it shall be shown that the li-  
35 censee has violated a provision of this chapter or of an applicable rule or  
36 regulation, or of federal motor vehicle safety standards. An Idaho licensed  
37 motor vehicle dealer or licensed motor vehicle salesman who is convicted of  
38 one (1) or more of the offenses set forth in subsection (1) of this section  
39 shall not be eligible to reapply for a motor vehicle dealer's or salesman's  
40 license until all outstanding customer complaints have been resolved to the  
41 department's satisfaction and for the following time periods from the date  
42 of conviction: misdemeanor convictions: three (3) years for the first con-

1 viction and seven (7) years for every subsequent conviction; felony convic-  
2 tions: ten (10) years for the first conviction and ten (10) years for every  
3 subsequent conviction. The holder of a motor vehicle dealer's license shall  
4 not be eligible to apply for a motor vehicle salesman's license within the  
5 same time periods set forth in this subsection when convicted of one (1) or  
6 more of the offenses set forth in subsection (1) of this section.

7 (3) On its own motion, upon the sworn complaint of any person, inves-  
8 tigate any suspected or alleged violation by a licensee of any of the provi-  
9 sions of this chapter or of an applicable rule or regulation.

10 (4) Prescribe forms for applications for licenses and qualifications  
11 for an applicant for licensure. Every application for a license shall con-  
12 tain, in addition to other information required by the department, the fol-  
13 lowing:

14 (a) The name and residence address of the applicant and the trade name,  
15 if any, under which he intends to conduct his business. If the appli-  
16 cant is a copartnership, the name and residence address of each member,  
17 whether a limited or general partner, and the name under which the part-  
18 nership business is to be conducted. If the applicant is a corporation,  
19 the name of the corporation and the name and address of each of its prin-  
20 cipal officers and directors.

21 (b) A complete description, including the city with the street number,  
22 of the principal place of business and any other and additional places  
23 of business operated and maintained by the applicant in conjunction  
24 with the principal place of business.

25 (c) Copies of any letters of franchise for new vehicles that the appli-  
26 cant has been enfranchised to sell or exchange, and the name or names and  
27 addresses of the manufacturer or distributor who has enfranchised the  
28 applicant.

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

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

33 (f) For a manufacturer's license, the name or names and addresses of  
34 each and every distributor, factory branch, and factory representa-  
35 tive.

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

40 (h) Before a dealer who is not exempted from the continuing education  
41 requirements as provided in section 49-1637(2), Idaho Code, may ap-  
42 ply for a renewal of a vehicle dealer's license, he shall provide to  
43 the department a certification from an accredited educational system,  
44 private vocational school, correspondence school or trade association  
45 approved by the department stating that the vehicle dealer has satis-  
46 fied the four (4) hour continuing education requirements as specified  
47 in section 49-1637(1), Idaho Code.

48 (i) Before any vehicle dealer's license is issued by the department  
49 to an applicant who is not licensed with the department as a dealer  
50 within the previous twelve (12) calendar months and who is not exempted

1 from the continuing education requirements as provided in section  
2 49-1637(2), Idaho Code, the applicant shall provide to the department  
3 a certification from an accredited educational institution, private  
4 vocational school, correspondence school or trade association ap-  
5 proved by the department stating that the applicant has satisfactorily  
6 completed the prelicensing class or program requirements, including  
7 a written examination of material presented, specified in section  
8 49-1637(1), Idaho Code.

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

12 (6) Require that a dealer's principal place of business, and other  
13 locations operated and maintained by him in conjunction with his principal  
14 place of business, have erected or posted signs or devices providing infor-  
15 mation relating to the dealer's name, location and address of the principal  
16 place of business, and the number of the license held by the dealer.

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

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

23 (9) Seek and consider the advisory board's recommendations and com-  
24 ments regarding proposed rules promulgated for the administration of the  
25 provisions of this chapter.

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