

**"CHAPTER 289
USED MOTOR VEHICLE PARTS AND ACCESSORIES**

Section

- 289-1 Definitions
- 289-2 Unlicensed person not to engage in business
- 289-3 Application for a license
- 289-4 Issuance of license
- 289-5 Suspension and revocation of license
- 289-6 Records to be kept
- 289-7 Director of finance to maintain records
- 289-8 Penalties

Revision Note

Throughout this chapter, "director of finance" has been substituted for "treasurer" to conform to county charters.

" **§289-1 Definitions.** As used in this chapter:

"Business" includes any activities engaged in by any person or organization or caused to be engaged in by the person or it for the object of gain, benefit, or advantage, either direct or indirect.

"Director of finance" means the director of finance of each county.

"Engaged in business", "engaging in business", and equivalent expressions mean commencing, conducting, or continuing in, holding oneself out by advertising, or any other means of being in a business, as well as liquidating a business when the liquidator thereof holds oneself out to be conducting the business. However, making or negotiating a casual or isolated sale or purchase is not engaging in business, but the sale or negotiation for the purchase by any person, during any period of one year, of more than three used motor vehicle parts or accessories (except as an incident to the established business of a licensed seller) shall be presumptive evidence that the person negotiating for, or effecting such sale or purchase is engaging in the business of selling or negotiating the purchase of used motor vehicle parts or accessories and that, if unlicensed pursuant to this chapter, the person negotiating for, or effecting such sale or purchase is violating section 289-2 of this chapter.

"Motor vehicle" means every vehicle which is self-propelled.

"Retail", "sale at retail", "retail sale", and equivalent expressions, mean the act or attempted act of selling a used motor vehicle part or accessory to a person for use as a consumer.

"Sale", "selling", and equivalent expressions, mean the act or attempted act, either as principal or an agent or in any capacity whatsoever, of selling, bartering, exchanging, or otherwise disposing of, or negotiating, or offering, or attempting to negotiate, the sale, purchase, or exchange of, or any interest in, a used motor vehicle part or accessory.

"Used motor vehicle part or accessory" means a motor vehicle part or motor vehicle accessory which has been the subject of prior sale at retail, either individually or attached to a motor vehicle as a component part or accessory thereof.

"Wholesale", "sale at wholesale", "wholesale sale", and equivalent expressions mean any sale other than a retail sale. [L 1967, c 277, §2; HRS §289-1; gen ch 1985]

Revision Note

Definitions rearranged.

" **§289-2 Unlicensed person not to engage in business.** It shall be unlawful for any person or organization, not duly licensed under this chapter, to engage in the business of:

- (1) Purchasing or selling used motor vehicle parts or accessories; or
- (2) Engaging in the business of wrecking, salvaging, or dismantling motor vehicles for the purpose of reselling the parts or accessories thereof. [L 1967, c 277, §3; HRS 289-2; am L 1984, c 276, §9]

Cross References

Motor vehicle repairs, see chapter 437B.

" **§289-3 Application for a license.** (a) Any person desiring to engage in any business described in section 289-2 shall file an application for a license therefor with the director of finance. The application for a license shall be made on the form prescribed by the director of finance and shall contain the following information:

- (1) Name of applicant and location of principal place of business;
- (2) The kind or nature of the business or businesses enumerated in section 289-2 which is to be conducted;
- (3) Name or style under which the business is to be conducted;
- (4) Name and address of each owner or partner, and, if a corporation, the names of the officers and directors;
- (5) Address of each place of business at which the business is to be conducted;
- (6) A statement showing whether or not the applicant has previously applied for a license under this chapter and the result of the application, and whether or not the applicant has ever been the holder of such a license which was revoked or suspended;
- (7) If the applicant is a corporation or copartnership, a statement showing whether or not any of the partners, employees, officers, or directors has been refused

such a license, or has been the holder of such a license which was revoked or suspended.

(b) Prior to the expiration of a license issued under this chapter, in lieu of an application for any renewal of a license as required herein, the director of finance may accept a verified certificate signed by the licensee showing that there has been no change, or no change with specified exceptions, since the last filing of an application in respect to:

- (1) Personnel of owners, partners, officers, or directors;
- (2) Location of offices, or principal place of business; and
- (3) That no proceeding is pending for the suspension or revocation of the licensee's existing license.

(c) A fee of \$10 shall accompany each application for a license. [L 1967, c 277, §4; HRS §289-3]

" **§289-4 Issuance of license.** The director of finance shall file each application received by the director of finance with the required fee and, when satisfied that the applicant, if an individual, or each of the partners or principal officers of the applicant, if a partnership or corporation, is of good moral character and that the applicant, so far as can be ascertained, has complied with and will comply with this chapter and the laws of the State relating to registration of motor vehicles, shall issue to the applicant a license permitting the applicant to engage in the business described in the applicant's application, at the address or addresses therein specified until June 30 next following the date of issuance of the license unless sooner terminated, suspended, or revoked. All applications for renewal of license shall be filed on or before June 30 of each year together with the applicable fees. [L 1967, c 277, §5; HRS §289-4; gen ch 1985]

" **§289-5 Suspension and revocation of license.** The director of finance shall suspend or revoke a license, upon notice and reasonable opportunity to be heard by the licensee, if the director of finance finds:

- (1) The license was fraudulently procured or erroneously issued; or
- (2) The licensee or any partner or principal officer of the licensee, if a partnership or a corporation, has failed to comply with this chapter or the laws of the State relating to the registration of motor vehicles; or
- (3) The licensee has been guilty of a fraudulent act in connection with selling or otherwise dealing in a

- wrecked or rebuilt motor vehicle or in dealing in used motor vehicle parts or accessories; or
- (4) The licensee has been convicted of a felony or misdemeanor involving moral turpitude, and not pardoned; or
 - (5) In case the licensee is a corporation, partnership, trust, or other business association, the director of finance may revoke or suspend the license in the event the director of finance finds that any officer, director, trustee, employee, or partner of the licensee has been guilty of any act or omission which would be cause for revoking or suspending a license issued to such officer, director, trustee, employee, or partner as an individual; or the director of finance's findings may be based on facts contained in the application, or any other information the director of finance may have, or both. [L 1967, c 277, §6; HRS §289-5; gen ch 1985]

Cross References

Conviction of a crime as disqualification, see §831-3.1.

" **§289-6 Records to be kept.** Every licensee shall keep a record, and maintain it for three years, in the form the director of finance prescribes, of the purchases, consignments, sales, and exchanges, moneys, commissions, or any other thing of value paid or agreed to be paid to any person for each wrecked, salvaged, or rebuilt motor vehicle, used motor vehicle part or accessory purchased, sold, consigned to be sold, or exchanged, and the records shall be at all times open to the inspection of the director of finance, or the director of finance's authorized representative, or any police officer. The records shall contain:

- (1) The name, address, and driver's license number of all persons from whom any wrecked, salvaged, or rebuilt motor vehicle, or used motor vehicle part or accessory is purchased or received, the date of their receipt or acquisition, and the consideration given;
- (2) The name and address of any person to whom any wrecked, salvaged, or rebuilt motor vehicle, or used motor vehicle part or accessory is sold, consigned to be sold, or otherwise exchanged, the consideration received therefor, and its date of disposition;
- (3) The name and address of any person who has received any money, commissions, or anything of value, or to whom the same is due and owing, in connection with the

sale or purchase of any such motor vehicle, or used motor vehicle part or accessory; and

- (4) A description of every such motor vehicle, used motor vehicle part, or accessory, including the identifying number or numbers for each such motor vehicle or used motor vehicle part or accessory. [L 1967, c 277, §7; HRS §289-6; gen ch 1985]

" **§289-7 Director of finance to maintain records.** The director of finance shall promulgate, pursuant to chapter 91, the rules and regulations necessary for the carrying out of this chapter and also prescribe the forms for the applications, licenses, and other documents mentioned herein, and shall create and maintain in the director of finance's office an appropriate filing system to accommodate the records required to be filed with the director of finance by this chapter. [L 1967, c 277, §8; HRS §289-7; gen ch 1985]

" **§289-8 Penalties.** Whoever violates any of the provisions of this chapter or any lawful rule or regulation promulgated by the director of finance under authority of this chapter, for the violation of which no penalty is provided by law, shall be fined not less than \$25 nor more than \$500. [L 1967, c 277, §9; HRS §289-8]