

ACT 277

S. B. 464.

A Bill for an Act Relating to the Licensing of Persons Dealing in Used Motor Vehicle Parts and Used Motor Vehicle Accessories and Persons Engaged in the Business of Wrecking, Salvaging and Rebuilding Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to control traffic in used motor vehicle parts and accessories by requiring the licensing of persons or organizations dealing in such used motor vehicle parts or accessories or engaged in the business of wrecking, salvaging, dismantling or rebuilding motor vehicles. The desirability of the control would be to assist in eliminating traffic in stolen motor vehicle parts and accessories in Hawaii.

SECTION 2. **Definitions.** As used in this Act:

“Treasurer” means the treasurer or director of finance of each county.

“Motor vehicle” means every vehicle which is self-propelled.

“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.

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

“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 himself out to be conducting such 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 Act, the person negotiating for, or effecting such sale or purchase is violating section 3 of this Act.

“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.

“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.

“Wholesale”, “sale at wholesale”, “wholesale sale”, and equivalent expressions mean any sale other than a retail sale.

SECTION 3. Unlicensed person not to engage in business. It shall be unlawful for any person or organization, not duly licensed under this Act, 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; or
- (3) Rebuilding wrecked or dismantled vehicles for the purpose of resale.

SECTION 4. Application for a license. (a) Any person desiring to engage in any business described in section 3 of this Act shall file an application for a license therefor with the treasurer. The application for a license shall be made on the form prescribed by the treasurer 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 3 of this Act 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 Act and the result of such 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 co-partnership, 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 Act, in lieu of an application for any renewal of a license as required herein, the treasurer 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.

SECTION 5. The treasurer shall file each application received by him 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 Act and the laws of the State of Hawaii relating to registration of motor vehicles, shall issue to the applicant a license permitting him to engage in the business described in his 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.

SECTION 6. Suspension and revocation of license. The treasurer shall suspend or revoke a license, upon notice and reasonable opportunity to be heard by the licensee, if he 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 Act or the laws of the State of Hawaii 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 treasurer may revoke or suspend the license in the event he 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 treasurer's findings may be based on facts contained in the application, or any other information he may have, or both.

SECTION 7. Records to be kept. Every licensee shall keep a record, and maintain it for three years, in the form the treasurer 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 treasurer, or his 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 therefor;
- (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.

SECTION 8. Treasurer to maintain records. The treasurer shall promulgate, pursuant to chapter 6C, the rules and regulations necessary for the carrying out of this Act and also prescribe the forms for the applications, licenses, and other documents mentioned herein, and shall create and maintain in his office an appropriate filing system to accommodate the records required to be filed with him by this Act.

SECTION 9. Penalties. Whoever violates any of the provisions of this Act or any lawful rule or regulation promulgated by the treasurer under authority of this Act, for the violation of which no penalty is provided by law, shall be fined not less than \$25 nor more than \$500.

SECTION 10. Liberal interpretation. All provisions of this Act relating to the licensing of persons engaged in the business of dealing in used motor vehicle parts and accessories or the wrecking, salvaging, or rebuilding of wrecked automobiles for the purpose of resale, and granting power to the treasurer or his appointees, shall be liberally construed to the end that the traffic in stolen motor vehicles and motor vehicle parts and accessories shall be eliminated.

SECTION 11. This Act shall take effect on January 1, 1968.

(Approved June 8, 1967.)