

ACT 299

S.B. NO. 2038

A Bill for an Act Relating to Bonding of Motor Vehicle Industry Licensees.

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

SECTION 1. Section 437-21, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 437-21.1, Hawaii Revised Statutes, is amended to read as follows:

“§437-21.1 [Bonds: manufacturer, factory branch, factory representative,¹ distributor branch, distributor representative, auction, auctioneer.] Bonds of auctions.

[(a) Auction.] The bond of an auction shall be in the same amount and under the same terms and conditions as required for a new motor vehicle dealer under section 437-17.

[(b) Auctioneer. The bond of an auctioneer shall be in the same amount and under the same terms and conditions as required for a salesman under section 437-21, regardless of whether the auctioneer is employed by more than one auction.

(c) Manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative. Each manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative engaged in the business of manufacturing, distributing, or selling new motor vehicles in this State shall furnish and maintain a surety bond in the penal sum of \$100,000 guaranteeing compliance by the principal with this chapter and the rules and regulations enacted thereunder and protecting the treasurer, the dealers, and the general public from any loss or damage resulting from the violation of any provision of this chapter or any rule or regulation enacted thereunder; provided that a factory branch, factory representative, distributor, distributor branch, or distributor representative need not furnish separate bonds if the manufacturer or distributor it represents has filed the bond required hereunder and the factory branch, factory representative, distributor, distributor branch, or distributor representative is named as a principal therein; and provided further that for a factory branch, factory representative, distributor, distributor branch, or distributor representative licensed under this chapter with respect to the business of dealing only with motorcycles and motor scooters and which is not named as a principal by the manufacturer or distributor it represents, the bond shall be only in the amount of \$10,000.

Suit on bonds shall be allowed under the¹ terms and conditions provided for a dealer's bond in section 437-17(d). Nothing contained in this section shall prohibit or prevent an independent action against the license¹ in violation of¹ aforesaid and any other person from being joined or consolidated with an action on the bond and the recovery of a larger amount than the amount of the bond.]”

SECTION 3. Section 437-27.5, Hawaii Revised Statutes, is amended to read as follows:

“[§437-27.5] Requirements to maintain license. A new motor vehicle dealer, used motor vehicle dealer, motorcycle or motor scooter dealer, broker, [salesperson,] and auction[, auctioneer, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative] shall have and maintain in full force and effect a bond as required under sections 437-17, 437-18, [437-21,] and 437-21.1. Failure, refusal, or neglect to maintain in full force and effect a bond shall cause the automatic suspension of the license effective as of the date of expiration or cancellation of the bond. The license shall not be reinstated until a bond as required under actions¹ 437-17, 437-18, [437-21,] or 437-21.1 is received by the board.

Failure to effect a reinstatement of a suspended license within sixty days of the suspension shall cause the license and all fees to be forfeited.

A licensee may, within fifteen calendar days after receipt of notification of the license forfeiture, request an administrative hearing pursuant to chapter 91 to review the forfeiture.”

SECTION 4. Act 233, 1988 Session Laws, is amended by amending Section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that the new bonding requirements provided in Section 1 shall be repealed on July 1, [1989] 1990 and section 437-17(a) shall be reenacted in the form in which it read immediately prior to the approval of this Act.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1989.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.