



APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE OR ASSEMBLE SECOND HAND MOTOR VEHICLES OR PARTS THEREOF IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 140 OF THE GENERAL LAWS

OFFICE OF THE BOARD OF SELECTMEN
One Main Street • Suite 1 • Upton, MA 01568

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a Class 2 license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? _____

Business address of concern: _____ FID# _____

2. Is the above concern an individual, co-partnership, an association or a corporation?

3. If an individual, state full name and residential address.

4. If a co-partnership, state full names and residential addresses composing it.

5. If an association or a corporation, state full names and residential addresses of the principal officers.

President _____

Secretary _____

Treasurer _____

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? _____

If so, is your principal business the sale of new motor vehicles? _____

Is your principal business the buying and selling of second hand motor vehicles? _____

Is your principal business that of a motor vehicle junk dealer? _____

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7. Give a complete description of all the premises to be used for the purpose of carrying on the business.

7a. Name and Address of the repair facilities used for warranty work if none exists on the premises

8. Are you a recognized agent of a motor vehicle manufacturer? ___yes___no

If so, state name of manufacturer_____

9. Have you a signed contract as required by Section 58, Class I? ___yes___no

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof?

___yes___no

If so, in what city – town _____

Did you receive a license? _____ For what year? _____

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? ___yes___no

Sign your name in full _____
(Only authorized to represent the concern herein mentioned)

Residence _____

Home telephone: _____ Business: _____ Cell: _____

Email: _____

IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH FULL INFORMATION AND FALSE STATEMENTS HEREIN MAY RESULT IN THE REJECTION OF YOUR APPLICATION OR THE SUBSEQUENT REVOCATION OF YOUR LICENSE IF ISSUED.

Note: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)

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CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO

Section 57. License; When Required; Report of Sales

Section 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof or allow any property under his control to be used as a place of sale or display of motor vehicles without securing a license as providing in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles, and to any person engaged in the business of leasing or renting motor vehicles and who, as an incident to such business, sells or offers to sell any such lease or rental vehicle to the public. All sales of second-hand motor vehicles or parts thereof made by any person referred to in this section shall be reported weekly to the registrar of motor vehicles on such forms as may be prescribed by him.

Section 58. Classes of Licenses

Section 58. (a) Licenses granted under sections 59 and 59A shall be classified in accordance with subsections (b) to (d), inclusive. (b) Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter applicable to holders of licenses of Class 2, except subsection (c), and to rules and regulations made under those provisions; and provided further, that such dealer maintains or demonstrates access to repair facilities sufficient to enable him to satisfy the warranty repair obligations imposed by section 7N1/4 of chapter 90, and shall remain liable for all warranty repairs made and other obligations imposed by said section 7N1/4 of said chapter 90.

(c) Class 2. A person whose principal business is the buying or selling of second hand motor vehicles, a person who purchases and displays second hand motor vehicles for resale in retail transactions, and any other person who displays second hand motor vehicles not owned by him pursuant to an agreement in which he receives compensation, whether solely for displaying the vehicles, upon the sale of each vehicle, or otherwise, may be granted a used car dealer's license and shall be subject to the following conditions:

(1) The person shall obtain a bond, or equivalent proof of financial responsibility as described in paragraph (5), and continue in effect a surety bond or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority in the amount of \$25,000 executed by a surety company authorized by the insurance department to transact business in the commonwealth. The bond or its equivalent shall be for the benefit of a person who purchases a vehicle from a Class 2 licensee, and who suffers loss on account of:-

(i) the dealer's default or nonpayment of valid bank drafts, including checks drawn by the dealer for the purchase of motor vehicles;

(ii) the dealer's failure to deliver, in conjunction with the sale of a motor vehicle, a valid motor vehicle title certificate free and clear of any prior owner's interests and all liens except a lien created by or expressly assumed in writing by the buyer of the vehicle;

(iii) the fact that the motor vehicle purchased from the dealer was a stolen vehicle;

(iv) the dealer's failure to disclose the vehicle's actual mileage at the time of sale;

(v) the dealer's unfair and deceptive acts or practices, misrepresentations, failure to disclose material facts or failure to honor a warranty claim or arbitration order in a retail transaction; or

(vi) the dealer's failure to pay off a lien on a vehicle traded in as part of a transaction to purchase a vehicle when the dealer had assumed the obligation to pay off the lien.

(2) Recovery against the bond or its equivalent may be made by any person who obtains a final judgment in a court of competent jurisdiction against the dealer for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. Every bond shall also provide that no suit may be maintained to enforce any liability on the bond unless brought within 1 year after the event giving rise to the cause of action.

(3) The bond or its equivalent shall cover only those acts and omissions described in clauses (i) to (vi), inclusive, of paragraph (1). The surety on a bond shall not be liable for total claims in excess of the bond amount, regardless of the number of claims made against the bond or the number of years the bond remained in force.

(4) A separate bond shall be required for each different name under which the dealer conducts his business and for each city or town in which the dealer has a place of business.

(5) In lieu of the bond required by this section, the municipal licensing authority may allow the dealer to deposit collateral in the form of a certificate of deposit or irrevocable letter of credit, as authorized by the banking laws of the commonwealth, which has a face value equal to the amount of the bond otherwise required. The collateral may be deposited with or executed through any authorized state depository designated by the commissioner. Interest on the certificate of deposit shall be payable to the dealer who has deposited it as collateral, or to a person as the dealer or the certificate may direct.

(6) A surety shall provide to the municipal licensing authority notice of cancellation of the bond within 30 days of the cancellation.

(7) Upon receipt of notification from a surety that a bond has been cancelled, the municipal licensing authority shall notify the licensee that he has 10 days to comply with the bonding requirement. If the licensee does not comply within the 10 day period, the municipal licensing authority shall revoke the Class 2 license and shall notify the registrar who shall suspend or revoke any dealer plate issued to the licensee pursuant to section 5 of chapter 90.

(8) A municipal licensing authority shall not issue or renew a Class 2 license unless it is satisfied that a bond or equivalent proof of financial responsibility meeting the requirements of this section is in effect during the term under which the license shall be issued or renewed, and that the licensee maintains or demonstrates access to repair facilities sufficient to enable him to satisfy the warranty repair obligations imposed by section 7N1/4 of chapter 90. A used car dealer shall remain liable for all warranty repairs made and other obligations imposed by said section 7N1/4 of said chapter 90.

(d) Class 3. A person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding and selling the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts may be granted a motor vehicle junk license.

(e) The registrar of motor vehicles, after consulting the office of consumer affairs and business regulation, shall adopt rules and regulations defining sufficient repair facilities for the purposes of subsection (b) and paragraph (8) of subsection (c).

Section 59. Licensing authorities; expiration; fees; application; prerequisites; premises; ordinance regulations; revocation;

The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which shall expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no event shall any such fee be greater than \$200. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for additions thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No original license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of the property abutting on the premises where such license or permit is proposed to be exercised. Except in the city of Boston, the licensing board or officer may, in its discretion, waive the annual hearing for renewal of a class 3 license. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. In each case where such license is revoked, the licensing board or officer shall forthwith notify the registrar of such revocation. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The parties shall have all rights of appeal as in other cases.

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APPLICATION/RENEWAL CHECKLIST

- Complete the “CLASS II License Application” per MGL c140,
- New Applications Only News Paper Notice at applicant’s expense. Bring full page from paper of notice to Board of Selectmen’s Office. Must be published within ten (10) days of filing. Hearing shall not be held sooner than 10 (10) days after advertising. All abutters will be notified by certified mail. Board of Selectmen’s Office will prepare legal notice.
- ZBA Decision
- Written Agreement from property owner if not applicant
- Plot plan identifying defined parking spaces of 162 sq. ft. each
- Written Agreement from the repair facilities used for warranty work

For the State of Massachusetts and the Town of Upton

- REVENUE ENFORCEMENT AND PROTECTION (REAP) ATTESTATION per M.G.L. Chapter 62C, §49A.
- WORKERS COMPENSATION CERTIFICATE OF INSURANCE per MGL c152, §25A.
- STATE WORKERS’ COMPENSATION INSURANCE AFFIDAVIT
- CORI CHECK
- \$25,000 SURETY BOND per
- \$200 LICENSE FEE

_____/_____
 BOARD OF SELECTMEN Approved/Denied Date

_____/_____
 BOARD OF SELECTMEN Approved/Denied Date

_____/_____
 BOARD OF SELECTMEN Approved/Denied Date

_____/_____
 POLICE CHIEF Approved/Denied Date

_____/_____
 FIRE CHIEF Approved/Denied Date

License No. _____ granted