

## CHAPTER 462

**AN ACT** concerning the sale of motor vehicles by motor vehicle dealers, amending various parts of the statutory law, and supplementing Title 39 of the Revised Statutes.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.39:10-2 is amended to read as follows:

### Definitions.

39:10-2. As used in this chapter unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Authorized signatory" means a dealer or leasing dealer and any employee, officer, director, partner, or other holder of an ownership interest in the licensed business authorized to execute documents on behalf of the dealer or leasing dealer, but shall not include any attorney-in-fact who is not an employee, officer, director, partner, or holder of an ownership interest.

"New motor vehicle" means only a newly manufactured motor vehicle, except a nonconventional type motor vehicle, and includes all such vehicles propelled otherwise than by muscular power, and motorcycles, motorized bicycles, trailers and tractors, and manufactured homes not subject to real property taxation pursuant to P.L.1983, c.400 (C.54:4-1.2 et seq.), excepting such vehicles as run only upon rails or tracks and manufactured homes subject to real property taxation.

"Used motor vehicle" means every motor vehicle and motorized bicycle, except a nonconventional type motor vehicle, title to, or possession of, which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as "secondhand" within the ordinary meaning thereof, and includes every motor vehicle and motorized bicycle other than a "new motor vehicle," a "nonconventional type motor vehicle" or a manufactured home subject to real property taxation.

"Any motor vehicle," "every motor vehicle," or similar term, means both new and used motor vehicles, except a "nonconventional type motor vehicle."

"Nonconventional type motor vehicle" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch-digging apparatus, well-boring apparatus, road and general purpose construction and maintenance machinery, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, power shovels, drag lines, self-propelled cranes, earth-moving equipment, trailers and semitrailers which weigh less than 2,500 pounds, except that no mobile or manufactured home or travel trailer shall be classified as a nonconventional type motor vehicle, motorized wheelchairs, motorized lawn mowers, bogies, farm equipment having a factory shipping weight of less than 1,500 pounds, whether or not motorized, including farm tractors within said weight limitation, industrial tractors, scooters, go-carts, gas buggies and golf carts. The Chief Administrator of the New Jersey Motor Vehicle Commission shall have power to make, amend and repeal regulations, not inconsistent with the provisions of this paragraph, prescribing what further vehicles or types of vehicles, not specified in this paragraph, shall be included in the category of nonconventional type motor vehicles.

"Motor vehicles which constitute inventory held for sale" means: new motor vehicles and used motor vehicles held for the purpose of sale by new motor vehicle dealers which can be identified by a manufacturer's Vehicle Identification Number (VIN) and have been invoiced

to, allocated to, or reserved by a new motor vehicle dealer licensed to do business in New Jersey, and such vehicle can be shipped by the manufacturer or distributor within a reasonable period of time and used motor vehicles held for the purpose of sale by new or used motor vehicle dealers which can be identified by a manufacturer's VIN and title papers or right to title is held by the used motor vehicle dealer. This term shall exclude motor vehicles held for the purpose of lease or rental by a person engaged in the motor vehicle leasing or rental business.

"Manufacturer's or importer's certificate of origin" means the original written instrument or document required to be executed and delivered by the manufacturer to his agent or a dealer, or a person purchasing direct from the manufacturer, certifying the origin of the vehicle.

"Certificate of ownership" means the document issued in conformance with this chapter, certifying ownership of a motor vehicle, other than manufacturer's or importer's certificate of origin.

"Assignment" means the execution of a prescribed form transferring ownership of a motor vehicle from the person named therein to the purchaser.

"Contract" means conditional sale agreement, bailment, lease, chattel mortgage, trust receipt or any other form of security or possession agreement executed prior to January 1, 1963, wherein and whereby possession of a motor vehicle is delivered to the buyer and title therein is to vest in the buyer at a subsequent time upon the payment of part or all of the price, or upon the performance of any other condition or happening of any contingency, or upon the payment of a sum substantially equivalent to the value of the motor vehicle, by which contract it is agreed that the buyer is bound to become, or has the option of becoming, the owner of the motor vehicle upon full compliance with the terms of the contract.

"Abstract" means the duplicate copy of the original certificate of ownership recording any encumbrance or upon which the existence of a security interest is noted.

"Title papers" means any instrument or document that is evidence of ownership of a vehicle.

"Chief Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Manufacturer" means the person who originally manufactured the motor vehicle.

"Licensee" means any person that is licensed to buy, sell or deal in, or lease motor vehicles pursuant to R.S.39:10-19.

"Established place of business" means a permanent, properly identified location within the State where the books, records, and files necessary to buy, sell, or deal in motor vehicles are kept and maintained, including, but not limited to, all documents required by R.S.39:10-6, title papers, manufacturers' or importers' certificates of origin, motor vehicle registration records, contracts, security agreements, all payroll records, including, but not limited to, IRS Form W-2 and IRS Form W-4 records, checkbooks, ledgers for business accounts and trust accounts, corporate authorities and licenses, dealer plates, ledgers listing all issued and unissued dealer assignments, and dealer plates.

"New motor vehicle dealer" means the agent, distributor, or authorized dealer of the manufacturer of the new motor vehicle who has an established place of business. A new motor vehicle dealer shall sell a minimum of four or more new motor vehicles within a 12-month timeframe and may engage in the business of buying, selling, or dealing in used motor vehicles in this State under the provisions of this chapter.

"Used motor vehicle dealer" means a person engaged in the business of selling, buying or dealing in four or more used motor vehicles per year at an established place of business, but who is not a licensed new motor vehicle dealer. A used motor vehicle dealer shall engage only in the business of buying, selling, or dealing in used motor vehicles in this State under the

provisions of this chapter and shall not engage in the business of buying, selling, or dealing in new motor vehicles in this State.

"Person" includes natural persons, firms or copartnerships, corporations, associations, or other artificial bodies, receivers, trustees, common law or statutory assignees, executors, administrators, sheriffs, constables, marshals, or other persons in representative or official capacity, and members, officers, agents, employees, or other representatives of those hereinbefore enumerated.

"Buyer" includes purchaser, debtor, lessee, bailee, transferee, and any person buying, attempting to buy, or receiving a motor vehicle subject to a security interest, lease, bailment or transfer agreement, and their legal successors in interest.

"Seller" means manufacturer, dealer, lessor, bailor, transferor with or without a security interest, and any other person selling, attempting to sell, or delivering a motor vehicle, and their legal successors in interest.

The terms "sell," "sale," "buy," or "purchase" and any form thereof include absolute or voluntary sales and purchases, agreements to sell and purchase, bailments, leases, security agreements whereby any motor vehicles are sold and purchased, or agreed to be sold and purchased, involuntary, statutory and judicial sales, inheritance, devise, or bequest, gift or any other form or manner of sale or agreement of sale thereof, or the giving or transferring possession of a motor vehicle to a person for a permanent use; continued possession for 60 days or more is to be construed as permanent use.

"Online sale" means buying, selling, or dealing in motor vehicles in this State over the Internet using electronic means.

"Electronic" means relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities.

"Manufacturer's number" means the original manufacturer's vehicle identification number die stamped upon the body, or frame, or either or both of them, of a motor vehicle or the original manufacturer's number die stamped upon the engine or motor of a motor vehicle.

"Purchaser" means a person who takes possession of a motor vehicle by transfer of ownership, either for use or resale, except a dealer when he takes possession through a certificate of origin.

"Debtor" means the person who owes payment or other performance of the obligation secured by a security interest in a motor vehicle.

"Security interest" means an interest in a motor vehicle which secures payment or other performance of an obligation.

"Security agreement" means an agreement which creates or provides for a security interest in a motor vehicle.

"Secured party" means a lender, seller or other person in whose favor there is a security interest.

"Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of the single or combination vehicle and, if the manufacturer has not specified a value for a towed vehicle, means the value specified for the towing vehicle plus the loaded weight of the towed unit.

2. R.S.39:10-19 is amended to read as follows:

Dealer's license; eligibility, term, fee.

39:10-19. No person shall engage in the business of buying, selling or dealing in motor vehicles in this State, nor shall a person engage in activity that would qualify the person as a leasing dealer, as defined in section 2 of P.L.1994, c.190 (C.56:12-61), unless: a. the person is

a licensed real estate broker acting as an agent or broker in the sale of mobile homes without their own motor power other than recreation vehicles as defined in section 3 of P.L.1990, c.103 (C.39:3-10.11), or manufactured homes as defined in section 3 of P.L.1983, c.400 (C.54:4-1.4); or b. the person is authorized to do so under the provisions of this chapter and P.L.1985, c.361 (C.56:10-26 et seq.).

The chief administrator may, upon application in such form as the chief administrator prescribes, license any proper person as a new motor vehicle dealer, a used motor vehicle dealer or a leasing dealer. A licensed real estate broker shall be entitled to act as an agent or broker in the sale of a mobile or manufactured home as defined in subsection a. of this section without obtaining a license from the chief administrator. For the purposes of this chapter, a "licensed real estate broker" means a real estate broker licensed by the New Jersey Real Estate Commission pursuant to the provisions of chapter 15 of Title 45 of the Revised Statutes. Any sale or transfer of a mobile or manufactured home, in which a licensed real estate broker acts as a broker or agent pursuant to this section, which sale or transfer is subject to any other requirements of R.S.39:10-1 et seq., shall comply with all of those requirements.

No person who has been convicted of a crime, arising out of fraud or misrepresentation in the sale, leasing or financing of a motor vehicle, shall be eligible to receive a license. For the purposes of this section, each applicant for a license shall submit to the chief administrator the applicant's name, address, fingerprints, and written consent for a criminal history record background check to be performed. The chief administrator is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules, and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the chief administrator in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

Each applicant for a new motor vehicle dealer license shall at the time such license is issued have established and maintained, or by that application shall agree to establish and maintain, within 90 days after the issuance thereof, a place of business consisting of a permanent building not less than 1,000 square feet in floor space located in the State of New Jersey to be used principally for the servicing and display of motor vehicles with such equipment installed therein as shall be requisite for the servicing of motor vehicles in such manner as to make them comply with the laws of this State and with any rules and regulations made by the board governing the equipment, use, and operation of motor vehicles within the State. However, a leasing dealer, who is not engaged in the business of buying, selling, or dealing in motor vehicles in the State, shall not be required to maintain a place of business with floor space available for the servicing or display of motor vehicles or to have an exterior sign at the lessor's place of business.

Each applicant for a used motor vehicle dealer license shall at the time such license is issued maintain an established place of business located in the State of New Jersey. The commission shall establish, by regulation, the requirements for an established place of business.

An established place of business of a new motor vehicle dealer or a used motor vehicle dealer shall display an exterior sign permanently affixed to the land or building, which sign is consistent with local ordinances and has letters easily readable from the major avenues of traffic. The sign shall include the dealer name or trade name, provided such trade name has been previously disclosed to the chief administrator.

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A license fee of \$200 shall be paid by an applicant upon the applicant's initial application for a license. The chief administrator may renew an applicant's license upon application for renewal on a form prescribed by the chief administrator and accompanied by a renewal fee of \$200. Every license shall expire 24 months from the date on which it is issued. The chief administrator may, at the chief administrator's discretion and for good cause shown, extend an applicant's license for an additional period not to exceed 12 months from the date on which it is scheduled to expire. The chief administrator may, at the chief administrator's discretion and for good cause shown, issue a license which shall expire on a date fixed by the chief administrator. The fee for licenses with an expiration date fixed by the chief administrator shall be fixed by the chief administrator in an amount proportionately less or greater than the fee established herein.

For the purposes of this section, a leasing dealer or an assignee of a leasing dealer whose leasing activities are limited to buying motor vehicles for the purpose of leasing them and selling motor vehicles at the termination of a lease to the lessee shall not be deemed to be engaged in the business of buying, selling, or dealing in motor vehicles in this State. Provided however, that a leasing dealer who wishes to engage in the business of buying, selling, or dealing in motor vehicles in this State by selling any vehicle at the end of the lease term to a consumer other than the lessee, shall be required to obtain a used car dealer license pursuant to this section.

C.39:10-19.5 Online motor vehicle sales; requirements, criteria.

3. a. A licensee may conduct online sales of motor vehicles anywhere in this State in accordance with this chapter subject to the additional requirements set forth in subsection b. of this section.

b. In addition to meeting the requirements set forth in this chapter for engaging in the business of buying, selling, and dealing in motor vehicles in this State, licensees conducting online sales of motor vehicles in this State shall meet the following requirements:

(1) Licensees shall maintain a physical presence in the State of New Jersey equal to or greater than the minimum established place of business requirements for new and used motor vehicle dealerships pursuant to R.S. 39:10-19;

(2) Licensees may keep and maintain non-physical, electronic records of online sales of motor vehicles and shall have a stable Internet connection in the office, but the records shall be kept and maintained in a format that allows immediate inspection and examination by the chief administrator or his or her agent; and

(3) Licensees shall only conduct online sales of motor vehicles that constitute inventory held for sale by the licensee or a licensed parent or licensed affiliate thereof.

C.39:10-39 Short title.

4. Sections 4 through 7 of P.L.2021, c.462 (C.39:10-39 through C.39:10-42) shall be known and may be cited as the "Motor Vehicle Transaction Modernization Act."

C.39:10-40 Definitions.

5. As used in sections 4 through 7 of P.L.2021, c.462 (C.39:10-39 through C.39:10-42):

"Buyer" includes a purchaser, debtor, lessee, bailee, transferee, and any person buying, attempting to buy, or receiving a motor vehicle subject to a security interest, lease, bailment or transfer agreement, or their legal successors in interest.

"Electronic" means relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities.

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“Electronic signature” means an electronic symbol, sound, or process attached to, or logically associated with, a record and executed or adopted by an individual with the intent to sign the record.

“Licensee” means any natural person or entity that is licensed to buy, sell or deal in, or lease motor vehicles pursuant to R.S.39:10-19.

“Motor vehicle transaction” means any “sale,” “purchase,” or “online sale” as those terms are defined pursuant to R.S.39:10-2 or any lease as defined pursuant to section 2 of P.L.1994, c.190 (C.56:12-61), conducted by a licensee.

C.39:10-41 Power of attorney documents acknowledged, electronic signature.

6. a. Notwithstanding any provision of law or regulation to the contrary, during a motor vehicle transaction conducted by a licensee authorized to conduct online sales pursuant to section 3 of P.L.2021, c.462 (C.39:10-19.5), the buyer and authorized licensee may execute and acknowledge power of attorney documents by electronic signature.

b. When executing power of attorney documents pursuant to this section, an electronic signature shall be attributable to a person if it is the action of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic signature is attributable.

c. The effect of an electronic signature attributed to a person under subsection b. of this section shall be determined from the context and surrounding circumstances at the time of the creation, execution, or adoption of the electronic signature, including the parties’ agreement, if any, and as otherwise provided by law.

d. Electronic signatures permitted under this section shall be executed in accordance with the minimum security requirements set forth by the National Highway Traffic Safety Administration under 49 C.F.R. s.580.1 et seq. for Assurance Level 2.

e. Nothing in sections 4 through 7 of P.L.2021, c.462 (C.39:10-39 through C.39:10-42) shall mandate the use of electronic signatures or require buyers and authorized licensees to provide electronic signatures on power of attorney documents. An electronic signature shall be a valid and acceptable alternative to a traditional ink signature for the purposes of executing power of attorney documents executed in accordance with this section.

f. The Chief Administrator of the New Jersey Motor Vehicle Commission shall not reject power of attorney documents submitted by a licensee in accordance with this section on the basis that such documents bear electronic signatures. Nothing in this section shall permit the electronic execution of any documents for the purpose of mileage disclosure subject to R.S.39:10-9 or the federal Truth in Mileage Act of 1986, Pub.L.99-579 (49 U.S.C. s.32705) unless authorized by the chief administrator by regulations adopted pursuant to section 8 of P.L.2021, c.462 (C.39:10-4.1).

C.39:10-42 Notarized signature not required.

7. Notwithstanding any provision of law or regulation to the contrary, during a motor vehicle transaction conducted by an authorized licensee, the Chief Administrator of the New Jersey Motor Vehicle Commission shall not require a notarized signature on any electronically signed power of attorney permitted by section 6 of P.L.2021, c.462 (C.39:10-41).

C.39:10-4.1 Rules, regulations; system to permit electronic motor vehicle sales transaction documents.

8. Not later than 24 months after the effective date of P.L.2021, c.462 (C.39:10-19.5 et al.), the Chief Administrator of the New Jersey Motor Vehicle Commission shall, in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),

adopt rules and regulations necessary to establish and administer a system to permit new motor vehicle sales transaction documents to be prepared by or submitted to the commission in electronic form, or processed electronically in compliance with R.S.39:10-1 et seq., the federal Truth in Mileage Act of 1986, Pub.L.99-579 (49 U.S.C. s.32705), and the regulations promulgated pursuant to the federal Truth in Mileage Act of 1986, Pub.L.99-579 (49 U.S.C. s.32705).

The chief administrator shall, by regulations adopted pursuant to this section, establish a schedule to permit used motor vehicle sales transaction documents to be prepared by or submitted to the commission in electronic form, or processed electronically, in compliance with R.S.39:10-1 et seq., the federal Truth in Mileage Act of 1986, Pub.L.99-579 (49 U.S.C. s.32705), and the regulations promulgated pursuant to the federal Truth in Mileage Act of 1986, Pub.L.99-579 (49 U.S.C. s.32705).

Notwithstanding the provisions of P.L.2017, c.308 (C.39:10-11.2 to 11.6) to the contrary, the system established by the commission pursuant to this section shall include the notification, recording, transfer, and release of security interests and title information by the lienholders of motor vehicles in lieu of a paper-based system used for those purposes.

9. Section 1 of P.L.1999, c.149 (C.39:2-3.8) is amended to read as follows:

C.39:2-3.8 Electronic, digital processing of motor vehicle transactions.

1. a. Whenever any law, rule or regulation requires or permits documents or information to be prepared by or submitted to the New Jersey Motor Vehicle Commission, the chief administrator may permit the documents or information to be prepared by or submitted to the commission in electronic or digital form, or processed electronically. In no event shall an individual be required to submit documents or information only in electronic or digital form; nor shall documents or information be made available to an individual only in electronic or digital form. Submission in electronic or digital form may be permitted pursuant to this section notwithstanding that any law, rule or regulation requires documents or information to be written or to be submitted in writing, specifies that documents or information be signed, certified, verified or witnessed, or otherwise explicitly or implicitly requires the preparation or submission of documents or information on paper or in written form. As used in this subsection, "individual" means a natural person.

b. The chief administrator, after consultation with the State Records Committee, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), regulations specifying how the signature, verification, certification, witnessing or other formal requirements shall be met with respect to documents or information permitted to be prepared or submitted in electronic or digital form pursuant to this section and specifying such additional safeguards as the chief administrator deems necessary to protect the privacy, and prevent improper access to or disclosure, of any personal information as defined in section 1 of P.L.1997, c.188 (C.39:2-3.3) that may be transmitted in an electronic or digital form, or processed. Regulations adopted pursuant to this subsection may permit the use of digital signature technology for the signing of documents and other appropriate purposes.

10. This act shall take effect immediately.

Approved January 18, 2022.