

PUBLIC CHAPTER NO. 1038

HOUSE BILL NO. 1323

**By Representatives Dunn, Harmon, Dean, Fraley, Lundberg, Weaver,
Shipley**

Substituted for: Senate Bill No. 954

By Senator Overbey

AN ACT to amend Tennessee Code Annotated, Title 4; Title 9; Title 47; Title 54; Title 55 and Title 65, relative to transportation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 17, is amended by adding the following language as a new part:

§ 55-17-301. As used in this part, unless the context otherwise requires:

(1) "Adapted vehicle" means a new or used motor vehicle especially designed or modified for use by an aging or disabled person;

(2) "Automotive mobility dealer" means any motor vehicle dealer who:

(A) Exclusively engages in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;

(B) Possesses adapted vehicles exclusively for the purpose of resale, either on his or her own account or on behalf of another, as his or her primary business; or

(C) Engages in the business of selling, installing, or servicing; offering to sell, install, or service; or soliciting or advertising the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a motor vehicle by an aging or disabled person; and

(3) "Mobility equipment" means equipment specifically designed to facilitate the use of a motor vehicle by an aging or disabled person.

§ 55-17-302.

(a) Any person, prior to engaging or continuing in the business of an automotive mobility dealer after March 1, 2011, shall obtain an automotive mobility dealer license from the commission.

(b)

(1) An automotive mobility dealer shall be licensed and regulated by the commission under the provisions of this chapter.

(2) The commission shall, by administrative regulations promulgated hereunder in accordance with Tennessee Code Annotated, Title 4, Chapter 5., establish requirements for initial application for and renewal of a license to be an automotive mobility dealer. The commission's regulations establishing requirements for automotive mobility dealers shall include provisions for automotive mobility dealers to meet reasonable and appropriate quality assurance requirements. Such requirements may include:

(A) Appropriate training by automotive mobility dealers regarding adapted vehicle usage;

(B) Driver evaluation by automotive mobility dealers; and

(C) A requirement that automotive mobility dealers obtain and maintain insurance in an amount to be established by the commission.

(3) The commission shall have the power to promulgate any other regulations that are necessary to implement this part, including denial, suspension or revocation of an automotive mobility dealer's license. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

(4) The commission shall, after notice and hearing, revoke the license of an automotive mobility dealer if it determines that the dealer has sold or modified a vehicle that does not comply with this section or any administrative regulations promulgated thereunder. A dealer whose license is revoked under this subsection (b) shall be permitted to appeal the revocation in accordance with part 1 of this chapter.

(5) An automotive mobility dealer's license may be denied, suspended or revoked for any violation of § 55-17-114.

(c) A licensed automotive mobility dealer shall have the right to display, demonstrate, inventory, advertise and offer for sale adapted vehicles.

§ 55-17-303.

(a) No more than two (2) new untitled motor vehicles of a specific line make may be consigned by a franchised motor vehicle dealer to an automotive mobility dealer.

(b) Any retail sale of a new untitled motor vehicle must be accomplished by the consigning franchised dealer.

(c) A licensed franchise motor vehicle dealer shall not be required to obtain an automotive mobility dealer license to display, advertise, offer for sale or sell adapted motor vehicles.

SECTION 2. For purposes of rulemaking, Section 1 of this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, Section 1 of this act shall take effect March 1, 2011, the public welfare requiring it.

SECTION 3. Tennessee Code Annotated, 55-18-101, is amended by deleting the present language in its entirety and by substituting instead the following:

“Automobile club or association,” as used in this chapter, means any individual or entity, who in consideration of fees, dues, periodic payments, or other specifically stated charges, promises its members to provide automobile club services.

SECTION 4. Tennessee Code Annotated, 55-18-102, is amended by deleting the present language in its entirety and by substituting instead the following language:

As used in this chapter, unless the context otherwise requires:

(1) “Automobile club service” is the rendering or procuring of, or reimbursement for, service that may be provided to a member related to travel and the operation, use and maintenance of a motor vehicle, including, but not limited to:

- (A) Bail bond service;
- (B) Buying and selling service;
- (C) Discount service;
- (D) Emergency road service;
- (E) Financial service;
- (F) Insurance service;
- (G) Legal service;
- (H) Map service;
- (I) Theft service;

(J) Touring service;

(K) Towing service;

(L) Trip interruption service, and

(M) Other services as may be authorized by the commissioner;

(2) "Bail bond service" means any act by an automobile club or association the purpose of which is to furnish to, or procure for, any person accused of violation of any law of this state, a cash deposit, bond or other undertaking required by law in order that the accused might enjoy personal freedom pending trial;

(3) "Buying and selling service" means any act by an automobile club or association whereby the member of any automobile club or association is aided in any way in the purchase or sale of an automobile or the purchase or sale of any accessories or equipment related to automobiles or travel, or any purchase of travel services;

(4) "Commissioner" means the commissioner of commerce and insurance;

(5) "Discount service" means any act by an automobile club or association resulting in the giving of special discounts, rebates or reductions of price on gasoline, oil, repairs, parts, accessories or service for motor vehicles or other goods and services, to members of any automobile club or association;

(6) "Emergency road service" means any act by an automobile club or association consisting of the fuel delivery, extrication, lockout service, repair, replacement or other adjustment of the equipment, tires or mechanical parts of an automobile so as to permit it to be operated under its own power;

(7) "Financial service" means any act by an automobile club or association whereby loans or other financial services such as stored value cards, deposit products, or advances of money, with or without security, are made or provided to or arranged for members of any automobile club association;

(8) "Insurance service" means the selling or giving by an automobile club or association to a member, of a policy of accident insurance covering liability or loss by a member as the result of death or personal injury or loss of or damage to the personal property of the member, or the selling of a hospital indemnity policy. The commissioner shall have the discretion to approve other services under this part if the feature, benefit or service is obtained by the automobile club or association from an insurance company in this state;

(9) "Legal service" means any act by an automobile club or association consisting of the hiring, retaining, engaging or appointing of an attorney or other person to give professional advice to, or represent, a member of any automobile club or association, in any court, as the result of liability incurred by the right of action accruing to the member as a result of the ownership, operation, use or maintenance of a motor vehicle;

(10) "Map service" means any act by an automobile club or association by which road maps are furnished with or without cost to members of any automobile club or association;

(11) "Other services" means additional services furnished by an automobile club or association which augment or are incidental to any service performed by the automobile club or association as authorized under the provisions of this chapter or any other service which is of assistance and is beneficial to its members and is feasible for the automobile club to render; provided, that such service is authorized by the commissioner;

(12) "Theft service" means any act by an automobile club or association the purpose of which is to locate, identify or recover a motor vehicle owned or controlled by a member of any automobile club or association, which has been, or may be, stolen or to detect or apprehend the person guilty of the theft;

(13) "Trip interruption service" means the provision of or reimbursement for travel expenses, including food, lodging, and transportation to the member's intended destination if the member's motor vehicle is stolen or is rendered inoperable due to an accident, theft, or mechanical breakdown;

(14) "Touring service" shall include any act by an automobile club or association by which touring information is furnished with or without cost to members of any automobile club or association or the making of arrangements or reservations for lodging or the travel space, discounts for accommodations or vehicle rental, procurement of tickets or permits for travel to any place in the world for a member of any automobile club or association; and

(15) "Towing service" means any act by an automobile club or association consisting of the drafting or moving of a motor vehicle from one (1) place to another under other than its own power.

SECTION 5. Tennessee Code Annotated, 55-18-103, is amended by deleting the present language in its entirety and by substituting instead the following:

(a) The commissioner has full and complete authority to grant certificates of authorization to automobile clubs and associations, to revoke or suspend the certificates in accordance with the Uniform Administrative Procedures Act, to promulgate rules and regulations, and to determine other services an automobile club or association may provide to its members.

(b) In determining if a certificate of authorization shall be issued, the commissioner shall take into consideration, together with all other factors, the name of the automobile club or association and, if the name will interfere with the transactions of an automobile club or association already doing business in this state or is so similar to one already appropriated as to confuse or is likely to mislead the public in any respect, the commissioner shall refuse to issue a certificate of authorization.

(c) The commissioner also has the authority to conduct hearings and to promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, §§ 4-5-101, et seq., for the administration of this chapter.

SECTION 6. Tennessee Code Annotated, 55-18-105(a), is amended by deleting "Within thirty (30) days after July 15, 2001" and by substituting instead "Annually".

SECTION 7. Tennessee Code Annotated, Section 55-18-106, is amended by deleting such section in its entirety and by substituting instead the following:

Section 55-18-106. Before any agent or representative may sell, solicit or negotiate membership in an automobile club or association in Tennessee, the agent or representative shall first apply to the commissioner for a license, and the commissioner shall have the full power and authority to issue the license upon proof satisfactory to the commissioner that the person is capable of soliciting automobile club or association memberships, and is of good moral character and recommended by the club or association in behalf of which the membership solicitations are made. No license shall be issued by the commissioner until the applicant has paid to the commissioner an annual license fee of twenty dollars (\$20.00).

SECTION 8. Tennessee Code Annotated, 55-18-107, is amended by substituting "or entity" for ", firm, association, copartnership, corporation, company or other organization" wherever such language appears.

SECTION 9. Sections 3 through 8 inclusive of this act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 27, 2010



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 11th day of June 2010



PHIL BREDESEN, GOVERNOR