

# JERRY PETROWSKI

WISCONSIN STATE SENATOR

## Assembly Bill 581

*December 14, 2021*

Good afternoon Mr. Chairman and committee members and thank you for taking the time to hear Assembly Bill 581. This bill was introduced at the request of the Department of Transportation (DOT) to assist them in addressing issues with a rapidly increasing number of individuals using Wisconsin wholesaler licenses. The department is responsible for the issuance and supervision of motor vehicle dealer licensees – which include motor vehicle wholesalers. Wholesalers require a license in Wisconsin and are prohibited from consigning vehicles to another dealer or selling to retail buyers.

Wisconsin has seen a significant increase in the number of wholesalers in Wisconsin. In fact, from June 2018 to June 2021, the number of licensees has increased 650%. This increase in Wisconsin occurred at the same time many other states were placing stricter requirements upon their wholesale licensing processes.

Wisconsin currently has more than 1,500 wholesale dealers, and more than 1,200 of these dealers are located within four warehouse facilities. Wisconsin's minimum facility requirements have allowed this business model to thrive in our state, as well as fraudulent activity, such as wholesalers selling directly to consumers without an inspection, buyer's guide, and/or with a tampered odometer.

The abuse of the wholesale license has become a nationwide epidemic. The American Association of Motor Administrators (AAMVA) acknowledged this problem and published a best practice document which recommend many potential reforms for this jurisdiction license type.

Assembly Bill 581 adopts many of these best practice recommendations and the reforms taken by other states. These are commonsense reforms, focused on strengthening consumer protections, include the following: limiting the number of wholesale dealers allowed in one physical location, requiring wholesalers to occupy their location and be available at posted hours, and requiring dealers to maintain a facility that is heated and electrified.

This bill will assist DOT's efforts to deal with bad actors while allowing long standing Wisconsin businesses to continue to operate. Thank you again for taking the time to hear this bill and I would be happy to answer any questions.

29TH SENATE DISTRICT

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STATE CAPITOL: P.O. Box 7882 • MADISON, WISCONSIN 53707-7882  
SEN.PETROWSKI@LEGIS.WISCONSIN.GOV • TELEPHONE: (608) 266-2502 • FAX: (608) 282-3569



# JOHN SPIROS

State Representative • 86th Assembly District

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**Testimony on Assembly Bill 581  
Assembly Committee on Transportation  
Tuesday, December 14, 2021**

Thank you Chairman Plumer and members of the Assembly Committee on Transportation for allowing me to submit testimony on Assembly Bill 581, relating to wholesale motor vehicle dealer licensing.

This bill is a request of the Wisconsin Department of Transportation (DOT). DOT is responsible for issuing and supervising motor vehicle dealer licensees, including motor vehicle wholesalers, who in Wisconsin, require a license and are prohibited from consigning vehicles to another dealer or selling to retail buyers.

Wisconsin currently has more than 1590 wholesale dealers, a number that has increased by 650% from June 2018 to June 2021. A majority of these dealers are located within five warehouse facilities in Wisconsin. This increase in the number of dealers in Wisconsin has occurred simultaneously to when many other states started placing stricter requirements upon their wholesale licensing processes.

The abuse of the wholesale license has become a nationwide epidemic. The American Association of Motor Administrators (AAMVA) acknowledged this problem and published a best practice document which was consulted in drafting this legislation. DOT's Department of Motor Vehicles Dealer and Agent Section has also put together a slide show outlining what has been occurring in Wisconsin and the necessity for this bill.

The current minimum facility requirements have allowed this business model to thrive in our state, as well as the fraudulent activity that can be seen with it. AB 581 focuses on strengthening consumer protections by putting in place some simple provisions to limit the number of wholesale dealers allowed in one physical location, require wholesalers to occupy their location and be available at posted hours, and require dealers to maintain a facility that is heated and electrified.

Thank you again for allowing me to submit testimony in support of this bill.

# Wisconsin Wholesaler Fraud

**Kristina Boardman**  
WisDMV Administrator  
Kristina.boardman@dot.wi.gov



**December 14, 2021**

1

What is a Wholesale License and what can you do with it?

- Buy and sell vehicles to other dealers only.

## Current Wholesale Dealer Requirements

- A business office to maintain the books, records, and files necessary to conduct business
- A vehicle display lot adjacent to the business office, unless all vehicles offered for sale are displayed within the business building.
- Display a dealership sign

How did we get to this point?

2



3

**Auto wholesale licenses to expire July 1, 2015**

A state law enacted in 2014 and coming into force July 1 has left holders of automobile wholesale licenses facing a dramatic change in the way they do business — if they decide to stay in business in Indiana at all.

State Rep. Ed Soliday, R-Valparaiso, who chairs the Roads and Transportation Committee through which the bill passed, said the law is cleaning up an industry that had made Indiana "the laughing stock of the nation" in the area of wholesale car dealing.

4

## Washington



**BRIDAL OUTLET**  
**WHOLESALE ONLY AUTO DEALERS**

B1001 - B1002 - B1003 - B1004 - B1005 - B1006 - B1007 - B1008  
B1009 - B1010 - B1011 - B1012 - B1013 - B1014 - B1015 - B1016  
B1017 - B1018 - B1019 - B1020 - B1021 - B1022 - B1023 - B1024  
B1025 - B1026 - B1027 - B1028 - B1029 - B1030 - B1031 - B1032  
B1033 - B1034 - B1035 - B1036 - B1037 - B1038 - B1039 - B1040  
B1041 - B1042 - B1043 - B1044 - B1045 - B1046 - B1047 - B1048

B1049 - B1050 - B1051 - B1052 - B1053 - B1054 - B1055 - B1056  
B1057 - B1058 - B1059 - B1060 - B1061 - B1062 - B1063 - B1064  
B1065 - B1066 - B1067 - B1068 - B1069 - B1070 - B1071 - B1072  
B1073 - B1074 - B1075 - B1076 - B1077 - B1078 - B1079 - B1080

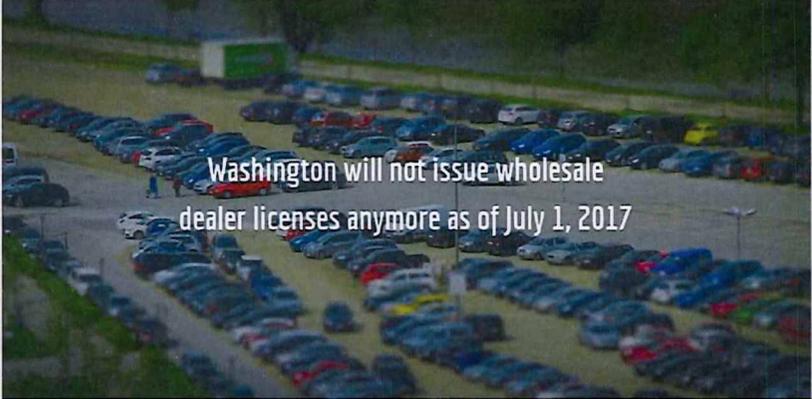
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B1089 - B1090 - B1091 - B1092 - B1093 - B1094 - B1095 - B1096  
B1097 - B1098 - B1099 - B1100 - B1101 - B1102 - B1103 - B1104  
B1105 - B1106 - B1107 - B1108 - B1109 - B1110 - B1111 - B1112

**CATALYST**

Numbers represent the business licenses of wholesale auto dealers renting space inside the offices of Suite B at 7207 Evergreen Way in **Everett, Washington**. There are **112 holders of wholesale auto dealer licenses and every one lives and operates in another state.**

5

## Washington



Washington will not issue wholesale  
dealer licenses anymore as of July 1, 2017

6



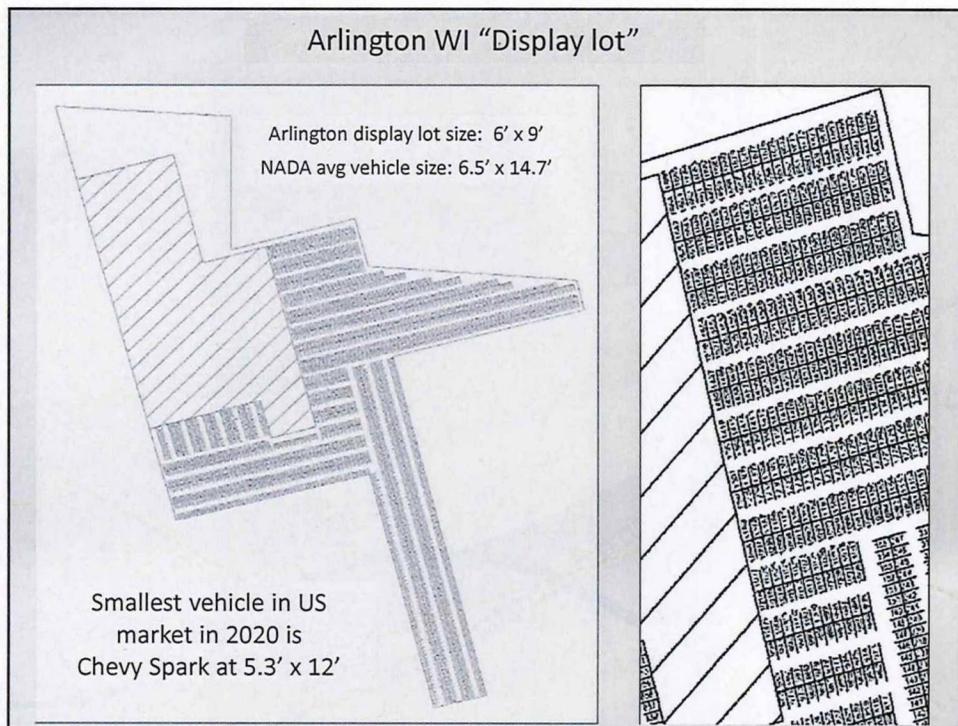
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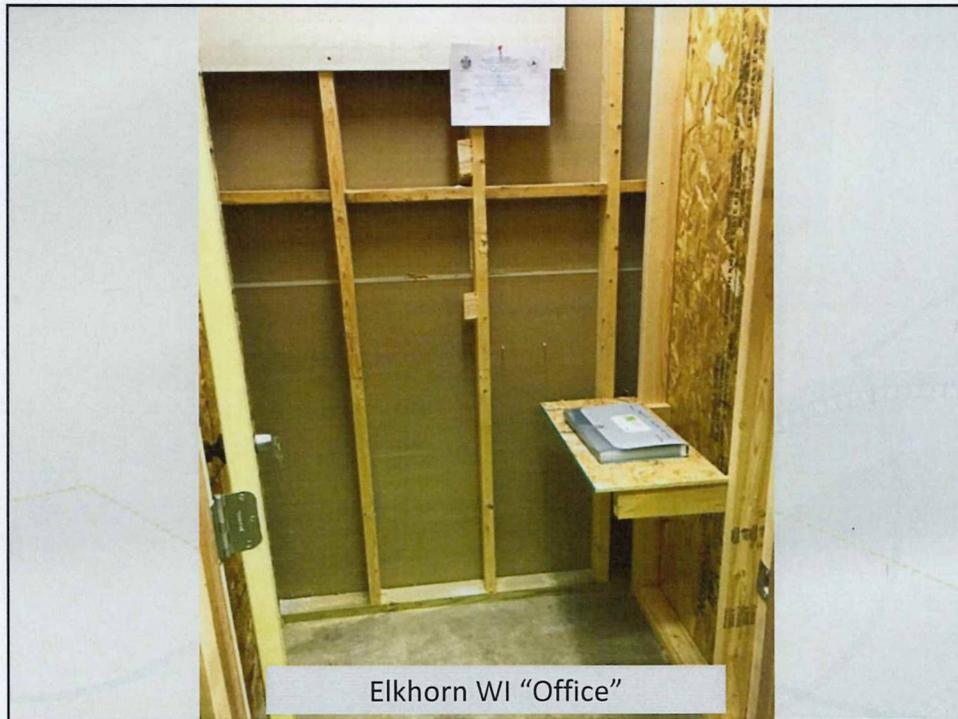
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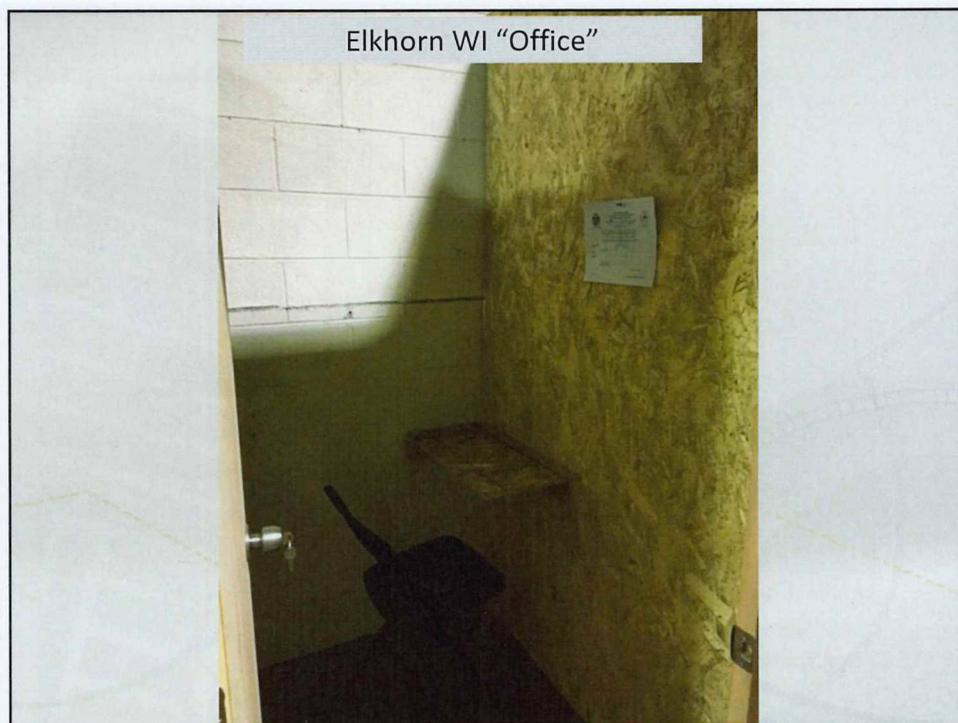


10



Elkhorn WI "Office"

11



Elkhorn WI "Office"

12



13

### Data and Impacts

Wholesale Dealer Licenses	
Year	Issued
2012	8
2013	4
2014	10
2015	6
2016	19
2017	12
2018	21
2019	341
2020	536
1/1/2021 - 11/12/2021	848

As of today, there are 1,591 licensed wholesale dealers in the state of Wisconsin, and 1,251 of those are at five locations (953 in Arlington, 81 in Beaver Dam, and 293 spread across three Elkhorn locations).

264 wholesale dealers are at "non-centralized" locations.

14

## Data and Impacts

YEAR	Total Licensing Actions Taken	Total Revocations	MV Dealers Revoked	Other Revoked	WHL dealers revoked	WHL CDO dealers revoked	% WHL dealers revoked	% WHL CDO dealers revoked
2017	1	1	0	0	1	0	100%	0%
2018	8	6	1	3	2	0	33%	0%
2019	13	8	1	0	3	3	37%	100%
2020	71	52	2	3	47	45	90%	86.5%
2021	221	86	2	0	84	84	98%	97.7%

Year	Wholesale Revocations due to Consumer Harm	Non-CDO revocations	CDO revocations
2017	1	1	0*
2018	2	2	0*
2019	4	1	3
2020	14	2	12
2021	8	0	8

**REVOKED due to unlicensed sales, odometer fraud, title fraud**

2020 – 12 CDO revocations (8 in Arlington and 4 in Elkhorn)

2021 – 8 CDO revocations (6 in Arlington and 2 in Elkhorn)

15

## Data and Impacts

**CASE STUDY: Esmar Motors LLC**

- CDO Wholesale License issued on 4/30/2019 at Arlington location.
- 9/3/2019 – DMV investigator contacted by Green Bay service center regarding a potentially altered title document for a 2010 Equinox.
- The title documented a rollback of 100,000 miles. Seller was Esmar Motors.
- DMV investigator conducted a review of vehicles purchased by Esmar at 3 out of state auctions (MI and IN). 7 purchased vehicles showed evidence of odometer rollbacks totaling 697,915 miles. 6 were retitled in IL and the 7<sup>th</sup> was the Equinox in WI.
- DMV investigator was contacted by an IN auction, where Esmar purchased two vehicles for a total of \$19,105. Esmar paid with bad checks.
- License was revoked on 12/18/2020.
- 697,915 miles x \$0.06 = consumer loss of \$41,875 AND \$19,105 in bad checks
- **TOTAL Loss: \$60,980 to consumers and businesses in WI, IL and IN**

\*Auction received \$19,105 in bond claim and WI customer with Equinox received \$2000 (current bond req: \$25K)

16

## Changing Business Model?

**More persons working from home?**

- Wholesale dealers working from home can list their residence as business address provided other facility requirements are met.

**Do CDO wholesale dealers live in Wisconsin?**

- A random sample of 300 CDOs shows that 9% live in WI, 61% live in IL, and 30% in other states.
- A random sample of 158 non-CDOs shows that 89% live in WI and 9.5% live in IL.

The WI wholesale dealer license generally allows access to auctions in all 50 states.



17

## Changing Business Model?

**Are there fewer motor vehicle salespersons?**

**Number of Salesperson Licenses Issued**



Year	Number of Licenses Issued
2015	8,120
2016	7,635
2017	7,817
2018	7,373
2019	8,400
2020	8,049

Source: BVS\DA\Business and Customer Services Unit Work Statistics

**Number of Buyer Licenses Issued**



Year	Number of Licenses Issued
2015	3,828
2016	3,608
2017	4,090
2018	4,502
2019	5,219
2020	5,418

**Fewer Buyer Licenses?**  
(Persons authorized by dealers to purchase at auctions)

18

## SUMMARY

### Since 2018

- 1251 centralized wholesale dealers licensed in Wisconsin.
- 132 centralized wholesale dealers revoked in WI.
- 26,164,949 miles were rolled back on 312 vehicles by WI centralized wholesale dealers.\*
- \$1,569,897 in consumer loss for the odometer rollbacks alone (\$0.06/mile).

Wisconsin DMV has been contacted by state agencies, businesses, and retail customers from 9 different states (MD, IN, NC, IA, IL, MI, OH, GA, CA) regarding the illegal activities of our licensed CDO Wholesaler Dealers.

\*January 2018 – May 2021

19

# **Assembly Committee on Transportation**

**December 14, 2021**

**Assembly Bill 581**

## **Regulation of Motor Vehicle Wholesale Dealers**

**On behalf of US Dealer Licensing and Wholesale Dealer License, Inc.**

**Testimony of Mike B. Wittenwyler**

### **What is a wholesale dealer?**

- With a wholesale dealer license, an individual can buy and sell vehicles at dealer-only auctions. Many auto auctions are closed to the general public and require a wholesale dealer license in order to attend the auction and purchase vehicles.
- Companies like Wholesale Dealer License, Inc. (wdlcorp.com) and US Dealer Licensing (usdealerlicensing.com) provide assistance to individuals seeking a wholesale dealer license.
- To start, these companies will walk the individual applicant through the dealer licensing process.
- The companies also then provide a state-approved physical address to rent, assist with any required paperwork, offer access to necessary bonding and insurance and continue to guide licensees on compliance matters.
- Within about 30 days, a company can help an individual obtain the wholesale dealer license and dealer license plates.
- Under Wisconsin law, a wholesale dealer license is required for anyone who sells, leases or negotiates any sales or contracts for five or more automobiles in a calendar year.
- With a wholesale dealer license, an individual can only buy and sell automobiles between other dealers.
- A wholesale dealer cannot sell to the general public.

### **What happened in 2021?**

- Without a rulemaking, notice or hearing (or a change in state law), the Wisconsin Department of Transportation (“WI DOT”) announced that the agency was implementing changes to the wholesale dealer license application process beginning on January 1, 2021.
- The requirements now being enforced by WI DOT include:
  - A permanent business location with indoor office space.
  - An outdoor vehicle display lot adjacent to the business office. The minimum size of the vehicle display lot must be equal to the size of a standard parking stall, in accordance with local or county zoning requirements.
  - A \$25,000 surety bond or irrevocable letter of credit.

- Zoning and local permit approval for the location.
  - An outdoor sign showing business name.
  - A sign with your business hours posted on or next to the entrance door.
  - Posted notice that sales are restricted to licensed dealers only.
  - A valid lease for the business real estate during licensing period unless the license applicant owns it.
  - Fees for a two-year wholesale dealer license, dealer plate fee, and representative license fee.
  - An applicant must be at least 18 years old.
  - Applicants will need to attend a training course.
- In attempting to comply with these requirements, companies found that WI DOT was inconsistent in its guidance and frequently changing the standard when a company thought it had achieved full compliance.
  - For example, WI DOT was inconsistent on what size is a standard parking stall.
  - Even when municipal officials had not objected to a parking space size, WI DOT insisted that a company get full approval via a variance from a “standard” size.
  - At all times, WI DOT insisted it was not attempting to regulate these companies out of business.
  - Given the investment the companies were making in complying with each of the new requirements, they wanted to be assured that the businesses would be allowed to operate.
  - Provided that the companies are in compliance with the new requirements, WI DOT stated that the companies would be fine.

**Why does 2021 Assembly Bill 581 put these Wisconsin companies out of business?**

- Assembly Bill 581 adopts a number of provisions that would make it cost prohibitive to operate a company like Wholesale Dealer License, Inc. or US Dealer Licensing.
- AB 581 would essentially prohibit the business model without saying it is prohibited.
- Changes to state law in AB 581 include:
  - Doubles the bond amount from \$25,000 to \$50,000;
  - Requires dealers to maintain a facility that is heated and electrified;
  - Sets a required parking space size of 9 x 18 feet;
  - Requires that each dealer have a designated parking spot;
  - Prohibits more than five dealers from sharing a single building;
  - Establishes a minimum office size of 8 x 8 free with a door, walls, lighting and certain furnishings;
  - Requires minimum staffing and weekly hours of business; and,
  - Limits the use of dealer plates.

- The stated objective of the bill is consumer protection.
- None of the provisions in AB 581 advance that objective.
- How does parking space size stop fraudulent activity?
- If there are actually alleged abuses and the need for consumer protection, WI DOT should state what they are and propose changes that directly address the alleged problems.
- A more sincere policy debate would be whether Wisconsin wants to allow companies that enable wholesale dealer licensing.
- A dealer that wants to engage in fraud or other unlawful activity will still be able to do so under AB 581, just with a bigger parking spot, defined office space, etc.
- AB 581 does nothing to prevent or otherwise deter bad behavior.
- AB 581 does nothing to make a consumer safer.
- What AB 581 does is increase the cost of entry into the market and make the hypothetical bad actor spend more to commit the bad act.
- AB 581 will pick winners and losers in the marketplace.
- To get at any bad actors in the industry, legislation should target specific behaviors, give consumers recourse or develop a system to better track and penalize certain misbehaving wholesalers.
- AB 581 does not do any of that.

## Suggested Consumer Protection Amendments to AB-581 / SB-658

Create a new statutory designation (with additional requirements) for a **Multi-wholesale Dealer Facility**. Would apply to Facilities with more than 5 wholesale dealers under one roof.

- **Prohibit Salvage/Junk purchases:** Prohibit wholesale dealers housed within a multi-wholesale dealer facility from being granted a “bid card” to buy salvage or junk vehicles.
- **Shared Facility Fee:** Create a new Multi-wholesale Dealer shared facility fee to help the Department with the administrative tracking and management of dealers. Shared facility fee would be based on the number of dealers housed in a multi-wholesale dealer facility. (\$100 x 200 dealers = \$20,0000)
- **Multi-dealer Facility application & review:** Create an application process and regular review of multi-dealer facilities to ensure the facility is equipped to properly manage and assist wholesale dealers with DOT compliance.
- **Real-time Reporting:** Require Multi-dealer facilities to immediately report to DOT if a wholesale dealer falls out of compliance.
  - Require multi-dealer facilities to keep electronic records that can easily be transferred to DOT.
  - A requirement of multi-wholesale dealer facilities to report dealers who have not turned in any paperwork for a period of 90 days. This will help gain better insight into potential dealers who are selling retail.
- **Real-time DOT Inspector Access:** Grant DOT inspectors’ real-time access to the “police logbook.” The logbook is a summary of all dealer transactions and would allow the Department to better identify any potential irregularities.
- **Expedited License Revocation:** Create an expedited process for license revocation that would only apply to dealers housed in a multi-wholesale dealer facility. If a dealer fails to maintain a place of business, retails a vehicle, or breaks any rules their license can be revoked in an expedited manner. It currently takes an extremely long to go through the revocation process of a dealer’s license. The timeline needs to be shortened and the process made clearer to remove “bad actors” from the market as quickly as possible.
- **Limit wholesale dealer plates:** Initial applicants can receive 4 dealer plates, subsequent plates could be ordered, however, they would have to show proof of sales to warrant extra plates.
- **Limit wholesale dealer agents:** Limit the number of agents on a wholesale dealer license if housed at a multi-wholesale dealer facility.
- **Wholesale dealer credit check:** Require a credit check for wholesale dealers housed in a multi-wholesale dealer facility.
- **Bond increase:** The current bond requirement is \$25,000. Increase this to \$50,000 to properly protect consumers if the bond needs to be called upon.
- **Require prepaid facility fees:** Require an annual (12-month) prepaid wholesale dealer lease when housed in a multi-wholesale dealer facility.
- **Financial disclosure & felony background check:** Require a financial disclosure or deposit with any new wholesale dealer application that is housed in a multi-wholesale dealer facility.



**To: Members – Assembly Committee on Transportation**

**Fr: LKQ Corporation**

**Re: Support for AB 581 - Motor Vehicle Dealer and Wholesaler Facilities and Licensure Requirements**

**Dt: December 13, 2021**

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LKQ Corporation (LKQ) is a leading provider of alternative and specialty parts to repair and accessorize automobiles and other vehicles. We currently have facilities in 47 states including Wisconsin. Our 12 Wisconsin facilities have 228 employees at salvage yards in Janesville, Hustisford and Milwaukee and distribution facilities in Appleton, Milwaukee and DeForest.

As a company that buys and dismantles thousands of junk and salvage vehicles daily, we place the utmost importance on public safety and consumer protection. It is imperative that the unsafe vehicles bought at salvage auctions are disposed of properly and do not end up back in the hands of an unknowing consumer.

That is why LKQ supports AB 581 and the Department of Transportation's (WisDOT) efforts to update and clarify the requirements on those who wish to hold a Wholesale Dealer License in Wisconsin.

Wholesale Dealers have operated in and worked with auto and salvage dealers in Wisconsin for decades. Salvage operators would routinely work with wholesaler dealers to obtain vehicles from auction. However, with the advent of technology most auto / salvage auctions have gone completely online and the demand for the wholesale dealers has diminished. That is why there were only a few hundred licensed wholesale dealers in Wisconsin - until recently.

Since 2018, Wisconsin has seen a dramatic spike in the number of licensed wholesale dealers in the state – growing from a few hundred to more than 1,500 today. More than 1,200 (or 83 percent) of these licenses are at three locations in Wisconsin – Elkhorn, Arlington, and Beaver Dam.

From data collected by WisDOT over the last few years, it is clear there are individuals taking advantage of Wisconsin's current wholesale dealer requirements by committing continued crimes and malpractice. Consumers in Wisconsin and across the country are becoming the victims of odometer fraud, title fraud and other types of criminal activity at the hands of licensed Wisconsin wholesale dealers.

These same licensed wholesale dealers can buy a vehicle from any auto auction in the country – including salvage auctions. That means they are buying damaged vehicles which are unsafe and not meant to be put back on the road.

Unfortunately, it seems unlikely that these unsafe, damaged vehicles are being disposed of properly. We do not know where the vehicles are going, but we know that they are not being sold to salvage operators for proper dismantling and disposal. It is possible that these unsafe vehicles are being cosmetically repaired, sold back to unknowing consumers, and then going back on the streets.

The problems Wisconsin is currently experiencing from wholesale dealers is not unique. Several other states have already experienced similar problems and have been forced to take legislative action. Many of these states have stopped issuing new wholesale dealer licenses, or simply eliminated the license completely.

Because states continue to see wholesale dealers committing various malpractices and crimes across the country, the American Association of Motor Vehicle Administrators (AAMVA) put together a "Wholesale Vehicle Dealer Licensing Whitepaper" in December 2019 which provides states some guidance to address the challenges that states may face with wholesale dealers. The requirements in AB 581 are modeled after that guidance and update and clarify the requirements for a wholesale auto dealer to operate in Wisconsin.

This bill will not eliminate the wholesale dealer license in Wisconsin. Individuals will still be able to obtain a Wisconsin wholesale dealer license under this legislation. However, we are confident that this legislation will stop the significant fraud and criminal activity currently happening at the hands of licensed Wisconsin wholesale dealers.