

Article 69.

Motor Clubs and Associations.

§ 58-69-1. Repealed by Session Laws 1999-132, s. 12.1.

§ 58-69-2. **Definitions.**

As used in this Article:

- (1) "Branch or district office" means any physical location, other than a motor club's home office, that is used by the motor club or its representatives as a principal place of business for conducting any type of business authorized under this Article and as a place of business that is used by clients or prospective clients in meeting or dealing with the motor club or its representatives in the normal course of business authorized under this Article.
- (2) "Licensee" means a motor club to which a license has been issued under this Article.
- (3) "Motor club" means any person, whether or not residing, domiciled, or chartered in this State, that, in consideration of dues, assessments, or periodic payments of money, promises its members to assist them in matters relating to the ownership, operation, use, or maintenance of motor vehicles by rendering three or more of the following services:
 - a. Automobile theft reward service. – A reward payable to any person, law enforcement agency, or officer for information leading to the recovery of a member's stolen vehicle and to the apprehension and conviction of the person or persons unlawfully taking the vehicle.
 - b. Bail or cash appearance bond service. – The furnishing of cash or a surety bond for a member accused of a violation of the motor vehicle law, or of any law of this State by reason of an automobile accident to secure the member's release and subsequent appearance in court.
 - c. Emergency road service. – Roadside adjustment of a motor vehicle so that the vehicle may be operated under its own power.
 - d. Legal service. – Providing for reimbursement to a member for attorneys' fees if criminal proceedings are instituted against the member as a result of the operation of a motor vehicle.
 - e. Map service. – The furnishing of road maps to members without cost.
 - f. Personal travel and accident insurance service. – Making available to members a personal travel and accident insurance policy issued by a duly licensed insurance company in this State.
 - g. Touring service. – The furnishing of touring information to members without cost.
 - h. Towing service. – Furnishing means to move a motor vehicle from one place to another under power other than its own. (1963, c. 698; 1983, c. 542; 1985, c. 666, s. 81; 1991, c. 401, s. 1; 1999-132, s. 12.2; 2000-122, s. 7.)

§ 58-69-5. **License required.**

No motor club, district or branch office of a motor club, or franchise motor club shall engage in business in this State unless it holds a valid license issued to it by the Commissioner as provided in this Article. The license shall at all times be prominently displayed in each office of the entity to which the license is issued. (1963, c. 698; 1991, c. 644, s. 15.)

§ 58-69-10. Applications for licenses; fees; bonds or deposits.

Licenses hereunder shall be obtained by filing a written application with the Commissioner in such form and manner as the Commissioner shall require. As a prerequisite to issuance of a license:

- (1) The applicant shall furnish to the Commissioner such data and information as the Commissioner may deem reasonably necessary to enable him to determine, in accordance with the provisions of G.S. 58-69-15, whether or not a license should be issued to the applicant.
- (1a) If the applicant has never been issued a motor club license it shall be required to submit an audited financial statement. If the applicant has previously been licensed the Commissioner may require that the financial statement be audited if it is reasonably necessary to determine whether or not a license should be issued to the applicant.
- (2) If the applicant is a motor club it shall be required to pay to the Commissioner a nonrefundable annual license fee of six hundred dollars (\$600.00) and to deposit or file with the Commissioner a bond, in favor of the State of North Carolina and executed by a surety company duly authorized to transact business in this State, in the amount of fifty thousand dollars (\$50,000), or securities of the type hereinafter specified in the amount of fifty thousand dollars (\$50,000), pledged to or made payable to the State of North Carolina and conditioned upon the full compliance by the applicant with the provisions of this Article and the regulations and orders issued by the Commissioner pursuant thereto, and upon the good faith performance by the applicant of its contracts for motor club services.
- (3) If the applicant is a branch or district office of a motor club licensed under this Article it shall pay to the Commissioner a nonrefundable license fee of one hundred dollars (\$100.00).
- (4) If the applicant is a franchise motor club it shall pay to the Commissioner a nonrefundable annual license fee of two hundred dollars (\$200.00) and shall deposit or file with the Commissioner a bond, in favor of the State of North Carolina and executed by a surety company duly authorized to transact business in this State, in the amount of fifty thousand dollars (\$50,000), or securities of the type hereinafter specified in the amount of fifty thousand dollars (\$50,000), pledged to or made payable to the State of North Carolina and conditioned upon the full compliance by the applicant with the provisions of this Article and the regulations and orders issued by the Commissioner pursuant thereto and upon the good faith performance by the applicant of its contracts for motor club services.
- (5) Any applicant depositing securities under this section shall do so in the form and manner as prescribed in Article 5 of this Chapter, and the provisions of Article 5 of this Chapter, shall be applicable to securities pledged under this

Article. (1963, c. 698; 1983, c. 790, ss. 7-9; 1991, c. 425, s. 1; c. 721, s. 2; 2009-451, s. 21.6(a).)

§ 58-69-15. Issuance or refusal of license; notice of hearing on refusal; renewal.

Within 60 days after an application for license is filed, the Commissioner shall issue a license to the applicant unless he shall find:

- (1) That the applicant has not met all of the requirements of this Article, or
- (2) That the applicant does not have sufficient financial responsibility to engage in business as a motor club in this State, or
- (3) That the applicant has failed to make a reasonable showing that its managers, officers, directors and agents are persons of reliability and integrity. If any such finding is made, the Commissioner shall notify the applicant as soon as practicable of the reason for his refusal to issue the license, and inform the applicant of its right to a hearing on the matters as provided in G.S. 58-69-25. All licenses issued hereunder, and all renewals thereof, shall expire on June 30 following such issuance or renewal. Renewal of all licenses not previously revoked or suspended shall be automatic upon timely payment by the licensee of the annual fee. (1963, c. 698.)

§ 58-69-20. Powers of Commissioner.

The Commissioner shall have the same powers and authority for the purpose of conducting investigations and hearings under this Article as that vested in him by G.S. 58-2-50 and 58-2-70.

- (1) To investigate possible violation of this Article and to report evidence thereof to the Attorney General who may recommend prosecution to the appropriate solicitor;
- (2) To suspend or revoke any license issued under this Article upon a finding, after notice and opportunity for hearing, that the holder of said license has violated any of the provisions of this Article, or has failed to maintain the standards requisite to original licensing as indicated in G.S. 58-69-15 hereof;
- (3) To require any licensee to cease doing business through any particular agent or representative upon a finding after notice and opportunity for hearing, that such agent or representative has intentionally made false or misleading statements concerning the motor club services offered by the motor club represented by him;
- (4) To approve or disapprove the name, trademarks, emblems, and all forms which an applicant for license or licensee employs or proposes to employ in connection with its business. If such name, trademarks or emblems is distinctive and not likely to confuse or mislead the public as to the nature or identity of the motor club using or proposing to use it, then it shall be approved, otherwise, the Commissioner may disapprove its use and effectuate such disapproval by the issuance of an appropriate order; and
- (5) To make any rules or regulations necessary to enforce the provisions of this Article. (1963, c. 698; 1987, c. 864, s. 3(c).)

§ 58-69-25. Hearing on denial of license.

Whenever the Commissioner denies an initial application for a license, he shall notify the applicant and advise, in writing, the applicant of the reasons for the denial or nonrenewal of the license. Within 30 days of receipt of notification the applicant may make written demand upon the Commissioner for a hearing to determine the reasonableness of the Commissioner's action. Such hearing shall be scheduled within 30 days from the date of receipt of the written demand. (1963, c. 698; 1989, c. 485, s. 32.)

§ 58-69-30. Agent for service of process.

Every motor club licensed hereunder shall appoint and maintain at all times an agent for service of process who shall be a resident of North Carolina. (1963, c. 698.)

§ 58-69-35. Violations; penalty.

Any person, firm, association or corporation who shall violate any of the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1963, c. 698; 1993, c. 539, s. 471; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 58-69-40. Disposition of fees.

All fees collected by the Commissioner under this Article shall be credited to the Insurance Regulatory Fund created under G.S. 58-6-25. (1963, c. 698; 1991, c. 689, s. 292; 1993 (Reg. Sess., 1994), c. 678, s. 30; 2003-221, s. 7.)

§ 58-69-45. Insurance licensing provisions not affected.

Nothing in this Article shall be construed as amending, repealing, or in any way affecting any laws now in force relating to the licensing of Motor Club Membership Sales Agents or to the licensing or regulation of insurance agents and insurance companies, as provided in Articles 1 through 64 of this Chapter. (1963, c. 698; 1983, c. 802, s. 3.)

§ 58-69-50. Authority for qualified surety companies to guarantee certain arrest bond certificates.

(a) Any domestic or foreign surety company that is authorized to do business in this State may become a surety, by filing with the Department an undertaking to become a surety, in an amount not to exceed one thousand five hundred dollars (\$1,500) with respect to each guaranteed arrest bond certificate issued by a motor club.

- (b) The undertaking shall be in a form to be prescribed by the Department and shall state:
- (1) The name and address of the motor club or clubs with respect to which the surety company undertakes to guarantee the arrest bond certificates.
 - (2) The unqualified obligation of the surety company to pay the fine or forfeiture, in an amount not to exceed one thousand five hundred dollars (\$1,500) of any person who, after posting a guaranteed arrest bond certificate which the surety has undertaken to guarantee, fails to make the appearance for which the guaranteed arrest bond certificate was posted. (1985, c. 623, s. 1; 1989, c. 663, s. 1; 1999-132, s. 12.3.)

§ 58-69-55. Guaranteed arrest bond certificates accepted.

(a) Any guaranteed arrest bond certificate guaranteed by a surety company under G.S. 58-69-50 shall be accepted in lieu of cash bail or other bond in an amount not to exceed one thousand five hundred dollars (\$1,500) as a bail bond, when signed by the person whose signature appears on the certificate, to guarantee the appearance of that person in any court in this State at the time set by the court when the person is arrested for the violation of any motor vehicle law of this State or any motor vehicle ordinance of any municipality of this State. The guaranteed arrest bond certificate shall not apply to, and shall not be accepted in lieu of, cash bail or bond when the person has been arrested for any impaired driving offense or for any felony.

(b) A guaranteed arrest bond certificate that is posted as a bail bond in any court shall be subject to the forfeiture and enforcement provisions with respect to bail bonds in criminal cases as provided by law. (1985, c. 623, s. 1; 1989, c. 663, s. 2; 1999-132, s. 12.4.)

§ 58-69-60. Notification of criminal or administrative actions.

(a) If an individual proprietor, officer, or partner of a motor club has been convicted in any court of competent jurisdiction for any crime involving dishonesty or breach of trust, the motor club shall notify the Commissioner in writing of the conviction within 10 days after the date of the conviction. As used in this subsection, "conviction" includes an adjudication of guilt, a plea of guilty, or a plea of nolo contendere.

(b) A motor club shall report to the Commissioner any administrative action taken against the motor club by another state or by another governmental agency in this State within 30 days after the final disposition of the matter. This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action. (2009-566, s. 18.)