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# Rules of Department of Revenue

## Division 10—Director of Revenue

### Chapter 26—Dealer Licensure

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**Title 12—DEPARTMENT OF  
REVENUE**

**Division 10—Director of Revenue  
Chapter 26—Dealer Licensure**

**12 CSR 10-26.010 Bona Fide Established  
Place of Business**

*PURPOSE: The department must determine that applicants/licensees such as boat dealers, boat manufacturers, motor vehicle dealers, wholesale motor vehicle dealers, motor vehicle manufacturers, public motor vehicle auctions and wholesale motor vehicle auctions maintain a bona fide established place of business. This rule establishes criteria that may be used in determining if this requirement has been met.*

(1) In order to constitute a bona fide established place of business, hereinafter referred to as a “business location,” for boat dealers, boat manufacturers, motor vehicle dealers, motor vehicle manufacturers, wholesale motor vehicle dealers, public motor vehicle auctions and wholesale motor vehicle auctions—

(A) The business location must be a permanently enclosed building or structure either owned or leased. The business location must be actually occupied and primarily used in whole, or in clearly designated and segregated part, as a place of business by the licensee for the manufacturing, selling, auctioning, bartering, trading or exchanging of motor vehicles, trailers or boats.

1. Example: An applicant for a motor vehicle dealer license maintains a building or structure primarily used in the operation of a business other than the sale or exchange of motor vehicles. As a sideline, the applicant desires to engage in the business of selling motor vehicles. The building or structure used primarily for some other business, other than the selling or exchanging of motor vehicles, does not qualify as a bona fide established place of business for the selling of motor vehicles unless an area is clearly designated and segregated and records are separately maintained for the purpose of selling, bartering, trading or exchanging of motor vehicles or trailers;

(B) The business location must be open regular business hours during which the public and the department are able to contact the licensee. Regular business hours for purposes of this rule shall be a minimum of twenty (20) hours per week, at least four (4) of the six (6) days of Monday through Saturday each week. Only hours falling between 6 a.m. and 10 p.m. will be considered by the department in the twenty (20) hour minimum. The busi-

ness hours shall be posted at the business location. The business location must contain a working telephone (other than a mobile or cellular phone) in the licensee’s name with an advertised public number that must be maintained during the entire period of licensure;

(C) The licensee must maintain at the business location the books, records, files and other items required and necessary to conduct the business. Such items shall be accessible for inspection during regular business hours. If a licensee is also licensed as an auction, the auction records must be kept separately from the dealer records;

(D) Unless otherwise specified, the business location of a licensee other than a wholesale dealer or boat dealer must also contain an area or lot which shall not be a public street upon which one (1) or more vehicles may be displayed.

1. The display area or lot must be of sufficient size to physically accommodate vehicles of the type which the licensee is licensed to sell.

2. The display area or lot must be used exclusively for display by the licensee and must be situated to prevent confusion or uncertainty concerning its relationship to the licensee.

3. The display area or lot must provide unencumbered visibility from the nearest public street of the vehicles being sold by the licensee.

4. Auctions that are also licensed as dealers must maintain a display area or lot separate from the dealership lot for auction vehicles.

5. A licensee in more than one (1) class of business may use the same building and display area for all classes so long as each use is separately and clearly marked. Records must be maintained separately and separate signs as specified in subsection (1)(E), must be displayed;

(E) The licensee must display an exterior sign, if applicable.

1. A licensee except a wholesale motor vehicle dealer must display an exterior sign that shall be of a permanent nature, erected on the exterior of the structure or on the display area, constructed or painted and maintained to withstand reasonable weather conditions and the sign must be readable. The sign must—

A. Identify the name of the licensee and class of the business conducted;

B. Have letters at least six inches (6”) in height;

C. Be clearly visible to the public; and

D. Comply with local sign ordinances, if any.

2. A temporary sign may suffice during the period of time required to obtain a permanent sign provided the order for construction, purchase or painting has in fact been placed. A copy of the sign order must be submitted with the application along with a picture of the temporary sign.

3. A public motor vehicle auction licensee shall display, in a conspicuous manner, two (2) additional signs, each of which shall bear the following warning in letters at least six inches (6”) high: “Attention Buyers: Vehicles sold at this auction may not have had a safety inspection.” The dimensions of each sign shall be at least two feet by two feet (2’ × 2’); and

(F) A new motor vehicle franchise dealer’s business location shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under the franchiser’s warranty.

(2) The bona fide established place of business of a licensee must be maintained for the entire licensure period. If the bona fide established place of business is not maintained, the licensee must notify the department within ten (10) days and surrender at that time the licensee’s temporary permits, license and license plates/certificates of number. If the licensee intends to relocate prior to the expiration of the license, the department must be informed of such intent at the time the license is surrendered. If the business is then certified at a new location, the department will return the temporary permits, license plates/certificates of number and issue a new license reflecting the new location for no additional fee. The department or its representative reserves the right to determine the existence of a bona fide established place of business at any time.

(3) A licensee who changes its business location during the licensure year must notify the department of that change prior to operating at the new site. The following must be submitted to the department:

(A) A new application certified by authorized law enforcement that the new location meets the requirements of a bona fide established place of business. “Change of Address” must be indicated at the top of the application.

1. If the business changes locations ninety (90) days or less before the expiration of the current license, a renewal application reflecting the new address should be filed instead of a change of address.

2. If the location change is not effective immediately upon filing the renewal application, a letter indicating the effective date of



the address change must accompany the renewal application; and

(B) A photograph of the business location that meets the specifications required of new applicants.

(4) If a licensee changes the business name during the licensure year, the licensee must notify the department of the name change prior to operating under the new name. The following must be submitted to the department:

(A) A new application properly completed that indicates "Name Change Only" at the top of the application. The application is not required to be certified by authorized law enforcement;

(B) A photograph of the business location that meets the specifications required of new applicants and that clearly shows the business sign displaying the new business name; and

(C) A corporate surety bond, bond rider, or revision to the irrevocable letter of credit that reflects the licensee's new business name.

(5) When a licensee changes its business name and/or location, it must also file the change with the Office of the Secretary of State.

(6) Each business location where a licensee auctions, manufactures, sells or displays motor vehicles, trailers or boats must be licensed separately with the department. However, when a licensee has more than one (1) location in the same city or with the same city mailing address, the licensee may operate under the same name and license number by filing a proper application for each business location with the department and maintaining a bona fide place of business at each location. No additional fees are required for the additional locations in these two (2) cases.

(7) A licensee may store cars at a storage lot location other than at the licensed business location, provided the department is notified of the storage location and no sales activity occurs on the storage lot.

*AUTHORITY: sections 301.553 and 301.560, RSMo Supp. 1998. \* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.560, RSMo 1988, amended 1989, 1993, 1995, 1997.*

**12 CSR 10-26.020 License Requirements for Auctions, Dealers and Manufacturers**

*PURPOSE: The department must determine whether applicants who apply for a license as a boat dealer, boat manufacturer, motor vehicle dealer, motor vehicle manufacturer, public motor vehicle auction or wholesale motor vehicle auction pursuant to sections 301.550 to 301.562, RSMo, have met the requirements outlined in the law. This rule clarifies these requirements.*

(1) A separate license is required for each of the following categories of licenses:

(A) Motor vehicle dealers and/or motor vehicle manufacturers;

(B) Boat dealers and/or boat manufacturers; however, a motor vehicle dealer may purchase and sell up to five (5) vessels during each licensure period without licensing as a boat dealer;

(C) Wholesale motor vehicle dealers;

(D) Wholesale motor vehicle auctions; and

(E) Public motor vehicle auctions.

(2) An applicant must complete in full the designated application for a license.

(A) If the applicant is a partnership or corporation and is doing business under another name (d/b/a), the applicant must list its partnership or corporate name and its d/b/a name. For example, John Smith Brothers Incorporated d/b/a Smith Brother's Used Cars. If the applicant is an individual, the business name must also be listed on the application.

(B) The business location name and address must be recorded on the application. A post office box number is not acceptable as a business location address.

(C) A separate "Mail to" address may only be listed on the application if the local postal authorities confirm, in a letter signed by an authorized representative of the post office, that it cannot or will not deliver mail to the business address due to security reasons such as theft or vandalism. The lack of a proper mail receptacle is not justification for the use of a "Mail to" address.

(D) Applicants obtaining a manufacturer's license must submit a letter that lists the makes of all motor vehicles/trailers/boats they will manufacture. If licensing as a "final stage" manufacturer/converter, the makes of all vehicle bodies, i.e., dump, hoist, coach, etc., they will manufacture and a brief description of the business must accompany the application.

(E) Each applicant, officer or owner for a license must list on the application his or her driver's license number, birthdate, home address, Social Security number and/or Federal Employee Identification Number.

(F) The application must be certified by an authorized law enforcement agency/officer. Applicants who are licensed within two (2) months of the license expiration period shall not be required to have his or her renewal application certified by a law enforcement agency/officer provided the renewal is filed before the present license expires.

(3) The corporate surety bond or an irrevocable letter of credit required in section 301.560.1(4), RSMo, shall be filed with the application and shall be maintained for the entire licensure period. The bond or letter of credit must either be irrevocable for the entire licensure period or by its terms require that the bonding company or entity issuing the bond or letter of credit to notify the department at least thirty (30) days prior to the cancellation or revocation date. Failure of the licensee to submit a valid bond or irrevocable letter of credit to the department prior to the date of cancellation/revocation shall result in immediate cancellation and revocation of the license, which shall not be stayed by a request for review.

(4) The photograph of the bona fide established place of business may be either a black and white or color photograph and must be at least four inches by six inches (4" x 6") but shall not exceed eight inches by ten inches (8" x 10"). Digitized photographs are not acceptable. If more than one (1) photograph is necessary to show the building, lot and sign, if applicable, a statement, signed by the applicant, must accompany the photograph explaining that all photographs were taken at the same address.

(A) A temporary sign may be used (as set forth in 12 CSR 10-26.010(1)(E)2.). If this is the case, a copy of the sign order and a picture of the temporary sign must be submitted with the application.

(5) For purposes of the franchise agreement requirement in section 301.559, RSMo, a letter of appointment or similar document signed by an authorized representative of the manufacturer will satisfy this requirement. The document must include the name and address of the franchise, the effective date of the franchise agreement, the expiration date of the franchise agreement, if applicable, and the make(s) of vehicle(s) the franchisee is authorized to sell. The letter must provide for notification to the department at least thirty

(30) days prior to cancellation of the franchise. A manufacturer's letter of intent shall not suffice as proof of franchise.

(6) A new applicant must complete and submit the appropriate form(s) requesting a criminal record check directly to the Missouri State Highway Patrol's General Headquarters along with the appropriate fee. The patrol shall provide the director with the results of the applicant's criminal record check to assist the director in determining the applicant's qualifications as provided in sections 301.559 and 301.562, RSMo.

(7) The applicant must submit appropriate fees as prescribed in 12 CSR 10-26.040.

**AUTHORITY:** sections 301.553, 301.559 and 301.560, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.

\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; 301.559, RSMo 1988, amended 1993, 1997; 301.560, RSMo 1988, amended 1989, 1993, 1995, 1997.

#### 12 CSR 10-26.030 License Renewal

**PURPOSE:** This rule sets forth the procedures for renewing dealer licenses.

(1) Renewal applications will be mailed by the department to the registered business address of the licensee at least ninety (90) days before the date of license expiration.

(A) Renewal applications received by the department less than sixty (60) days prior to the license expiration date must include an additional twenty-five dollar (\$25) processing fee. New applicants who are approved during the last ninety (90) days of the licensure period are not subject to the twenty-five dollar (\$25) additional processing fee at the time of renewal.

(B) Applications received after the license expiration date must include a fifty dollar (\$50) late fee.

(2) The department will mail all licenses issued to the registered business address of the licensee. The licenses must be prominently displayed at the place of business.

(3) For renewal of a license of a motor vehicle dealer or a boat dealer, an applicant must submit all previous monthly sales reports that document at least six (6) sales made during the last year licensed, if the applicant was licensed for the full calendar year. For licensure less than one (1) year, the department will prorate the six (6) sales requirement provided in section 301.550, RSMo, by requir-

ing one (1) sale for each full two (2)-month period licensed.

**AUTHORITY:** sections 301.550, 301.553, 301.559 and 301.560, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.

\*Original authority: 301.550, RSMo 1985, amended 1993, 1997; 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; 301.559, RSMo 1988, amended 1993, 1997; and 301.560, RSMo 1988, amended 1989, 1993, 1995, 1997.

#### 12 CSR 10-26.040 Fees

**PURPOSE:** This rule sets forth the fees payable to the department for dealer licenses.

(1) License fees must be submitted by applicants according to the fee schedule established below:

(A) Motor Vehicle Dealer and/or Manufacturer	\$150
(B) Boat Dealer and/or Boat Manufacturer	\$ 80
(C) Wholesale or Public Auction	\$150
(D) Wholesale Motor Vehicle Dealer	\$150

(2) An additional fifty-dollar (\$50) fee must be paid by each applicant for the first dealer license plate or certificate of number. Any additional dealer license plates or certificates of number may be obtained for ten dollars and fifty cents (\$10.50) each.

(3) If a license is lost, stolen or destroyed, the licensee may obtain a replacement license for a fee of eight dollars and fifty cents (\$8.50).

(4) When application for a license is made after the first month of a registration cycle, the license fee, the fifty-dollar (\$50) fee for the initial dealer license plate and additional plate(s)/certificate(s) of number fees shall be prorated on a twelve (12)-month basis. A renewal applicant is subject to the same fees without proration, regardless of the date the application is received.

**AUTHORITY:** sections 301.553 and 301.560, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.

\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.560, RSMo 1988, amended 1989, 1993, 1995, 1997.

#### 12 CSR 10-26.050 Business Records Required to be Maintained by Licensees

**PURPOSE:** This rule establishes the business records to be retained by boat dealers, boat

manufacturers, motor vehicle dealers, wholesale motor vehicle dealers and motor vehicle manufacturers.

(1) A licensee shall maintain clear and complete books, records, files and other matters required and necessary to conduct the business of manufacturing and/or selling motor vehicles, trailers and/or boats including but not limited to titles, riders, disclosure statements, affidavits, inventory and related documentation.

(2) The licensee shall have sufficient proof of ownership at the business location for each vehicle/unit owned by the licensee in the form of a certificate of ownership or copy thereof, bill of sale or invoice.

(3) The business records of a licensee shall be maintained at the office of the licensee's business location.

(4) A licensee shall maintain business records for a period of not less than three (3) years, unless otherwise specified by law.

(5) A licensee shall maintain clear and complete copies of all odometer disclosure documents issued and received by the licensee for a period of five (5) years.

**AUTHORITY:** sections 301.553 and 301.560, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.

\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.560, RSMo 1988, amended 1989, 1993, 1995, 1997.

#### 12 CSR 10-26.060 Dealer License Plates/Certificates of Number

**PURPOSE:** This rule establishes guidelines for use of dealer license plates/certificates of number.

(1) Dealer license plates issued to a motor vehicle dealer or manufacturer shall only be displayed on a motor vehicle or trailer owned and held for resale by the licensee. A motor vehicle dealer who purchases up to five (5) vessels during a licensure period may display a motor vehicle dealer license plate on such vessel.

(2) A certificate of number issued to a boat dealer shall be displayed on a vessel or vessel trailer owned and held for resale by the licensee. In addition to obtaining a certificate of number, a boat dealer or manufacturer may obtain a boat dealer trailer license plate solely for the purpose of demonstrating a vessel



trailer. A certificate of number or boat dealer trailer license plate may be displayed on a vessel trailer which is transporting a vessel for demonstration or to an exhibit or show as long as both units are for resale.

(3) Dealer license plates or certificates of number may only be used by an employee, owner or officer of the licensee or customer test driving the motor vehicle, trailer or vessel. A customer who is test driving a vehicle or vessel for more than forty-eight (48) hours, or who is test driving a tractor, truck or a trailer under loaded conditions, must have a written demonstration agreement in the vehicle which has been signed and dated by both the customer and the licensee. The written demonstration agreement must be on the licensee's letterhead and include the following items:

(A) A statement that the vehicle or vessel is being used for demonstration purposes only and the anticipated duration of the demonstration;

(B) A description of the vehicle or vessel, including the year, make and identification number;

(C) The name of the customer demonstrating the unit;

(D) The licensee's name, dealer number and business address;

(E) A statement of the type of property being transported, if applicable; and

(F) The mileage on the odometer of the vehicle at the time the demonstration began.

(4) Dealer plates or certificates of number may not be displayed on a motor vehicle, trailer or vessel that is hired or loaned to others or on any regularly used service or wrecker vehicle.

(5) A licensee must account for all dealer license plates/certificates of number at all times.

(6) Whenever a licensee is no longer entitled to a license due to cessation of business, sale of the business, abandonment of the business, suspension or revocation of the license, or other circumstance, the dealer license plates/certificates of number, business license, required monthly sales reports and any unissued permits, if applicable, shall be surrendered to the department immediately, but in no event later than ten (10) days following such circumstance. If a licensee dies or becomes incapacitated, the heirs or estate of the licensee or legal guardian may retain these items for no more than one hundred eighty (180) days after death or incapacitation, or until the license expires, whichever comes first, in which to settle the affairs of

the licensee or to apply for a new license in the name of the successor.

(7) Public motor vehicle auctions and wholesale motor vehicle auctions shall not be issued dealer license plates.

*AUTHORITY: sections 301.553, 301.560 and 301.562, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; 301.560, RSMo 1988, amended 1989, 1993, 1995, 1997; 301.562, RSMo 1988, amended 1993, 1997.*

**12 CSR 10-26.070 Procedural Requirements For Wholesale Motor Vehicle Auctions**

*PURPOSE: This rule outlines the procedural requirements for wholesale motor vehicle auctions as defined in section 301.550, RSMo.*

(1) For purposes of this rule, the term "auction" shall mean, "wholesale motor vehicle auction" unless specified otherwise.

(2) Auctions shall maintain the following information for five (5) years from the date of sale of any motor vehicle or trailer:

(A) The year, make, model and vehicle identification number of the motor vehicle;

(B) The name and address of the seller;

(C) The name and address of the buyer;

(D) The date of sale and the purchase price;

(E) The odometer reading of the motor vehicle at the time of sale and odometer disclosure information that complies with the state and federal laws; and

(F) The certificate of title number and state of issue.

(3) Each auction shall maintain for three (3) years a file on each licensed dealer who buys or sells vehicles at the auction. The file must contain the dealership's name, dealer license number, the state(s) where licensed, dealership's address, dealership's owner(s), partner(s) or corporate officers and the name and address of all individuals authorized to buy and sell on behalf of the dealership.

(4) Any individual conducting a wholesale motor vehicle auction must be licensed pursuant to all applicable laws and make available for inspection all applicable licenses to law officers or Department of Revenue employees. An auction shall maintain a record of each individual performing auction-

ing services and the inclusive dates of such services.

(5) Prior to transfer of title of any motor vehicle at auction, an auction shall review all applicable vehicle documentation for all vehicles sold through the auction including but not limited to the following: certificate of title and odometer disclosure statement, if applicable.

(A) The auctioneer must announce any title brands known, the condition of the vehicle, any known damage to the vehicle, the odometer reading of the vehicle on the date of sale and whether the odometer disclosure is actual, not actual, exceeds mechanical limits, or exempt.

(6) Motor vehicles sold at auction are not required to display a Federal Buyer's Guide, unless such vehicles are being sold by a government entity, whose sales are opened to the public as required by law.

(7) An auction must verify that each dealer who buys and sells at the auction is currently licensed as a motor vehicle dealer in the state of Missouri or another jurisdiction at the time of registration with the auction. Thereafter, the auction shall verify that the dealer's license is valid on an annual basis.

(8) A certificate of number (license) issued to an auction by the director must be prominently displayed at the auction's bona fide established place of business.

(9) An auction may only conduct business at its licensed location. Off-site sales are prohibited.

(10) An auction must issue to the buyer and seller of each vehicle a sales document that contains—

(A) The year, make, model and vehicle identification number of the motor vehicle;

(B) The name and address of the seller;

(C) The name and address of the buyer;

(D) The date of sale and the purchase price; and

(E) The odometer reading of the motor vehicle at the time of sale.

(11) Records required by this regulation may be maintained in an electronic format.

*AUTHORITY: sections 301.550–301.573, RSMo 1994 and Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: see Missouri Revised Statutes 1994 and Missouri Revised Statutes Cumulative Supplement 1999.*



**12 CSR 10-26.080 Procedural Requirements For Public Motor Vehicle Auctions**

*PURPOSE: This rule outlines the procedural requirements for public motor vehicle auctions as defined in section 301.550, RSMo.*

(1) For purposes of this rule, the term “auction” shall mean “public motor vehicle auction” unless specified otherwise.

(2) Auctions shall maintain the following information for five (5) years from the date of sale of any motor vehicle or trailer:

(A) The year, make, model and vehicle identification number of the motor vehicle;

(B) The name and address of the seller;

(C) The name and address of the buyer;

(D) The date of sale and the purchase price;

(E) The odometer reading of the motor vehicle at the time of sale and an odometer disclosure statement that complies with the state and federal laws;

(F) A photocopy of both the front and back of the certificate of title; and

(G) Copies of any supporting rider, statement, affidavit, inspection or other document that accompanied the transaction.

(3) Each auction shall provide access to all records requested by Department of Revenue employees or law enforcement during normal business hours.

(4) Motor vehicles shall only be sold at an auction conducted by a licensed auctioneer. The motor vehicle auction must be scheduled and publicized at least one (1) week prior to the sale date.

(5) Any individual conducting a public motor vehicle auction must be licensed pursuant to all applicable laws and make available for inspection all applicable licenses to law officers or Department of Revenue employees. An auction shall maintain a record of each individual performing auctioneering services and the inclusive dates of such services.

(6) Prior to selling any motor vehicle at auction, an auction shall review all applicable vehicle documentation including but not limited to the following: certificate of title and odometer disclosure statement, if applicable.

(A) Prior to selling a vehicle at auction, the auctioneer must announce any brands printed on the title, the condition of the vehicle, any known damage to the vehicle, the odometer reading of the vehicle and any other information on the odometer disclosure statement.

(7) Motor vehicles sold at auction are not required to be safety inspected. Auctioneers shall announce at the beginning of each public auction that the vehicles offered for sale may not have been safety inspected. Relevant signs shall be posted as required by statute.

(8) Both licensed dealers and the public may attend and buy or sell at a public motor vehicle auction.

(9) Motor vehicle auctions shall not accept for sale from a dealer any vehicle without a Federal Buyer’s Guide affixed to the vehicle or which does not comply with other applicable state or federal disclosure requirements.

(10) An auction must verify that each dealer who sells at the auction is currently licensed as a motor vehicle dealer in the state of Missouri or another jurisdiction.

(11) A certificate of number (license) issued to an auction by the director must be prominently displayed at the auction’s bona fide established place of business. A separate license must be obtained by each public motor vehicle auction.

(12) An auction may only conduct business at its licensed location. Off-site sales are prohibited.

(13) An auction must issue to the buyer and seller of each vehicle a document that contains—

(A) The year, make, model and vehicle identification number of the motor vehicle;

(B) The name and address of the seller;

(C) The name and address of the buyer;

(D) The date of sale and the purchase price; and

(E) The odometer reading of the motor vehicle at the time of sale.

*AUTHORITY: sections 301.550–301.573, RSMo 1994 and Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: See Missouri Revised Statutes 1994 and Missouri Revised Statutes Cumulative Supplement 1999.*

**12 CSR 10-26.090 Regulation of Off-Premises Shows and Tent Sales**

*PURPOSE: This rule specifies the requirements a motor vehicle dealer must meet in order to participate in a show or sale conducted away from their bona fide established place of business as provided in section 301.566, RSMo.*

(1) For purposes of this rule, dealers shall be divided into classes, as provided in section 301.550.3, RSMo, as follows:

(A) Classic motor vehicle dealer—A dealer of motor vehicles at least five (5) years of age that were produced in limited numbers or otherwise have special value unrelated to basic transportation, excluding recreational motor vehicles, historic motor vehicles, motorcycles, motortricycles and all terrain vehicles;

(B) Franchised new motor vehicle dealer—A dealer of new motor vehicles, excluding recreational motor vehicles, motorcycles, motortricycles and all terrain vehicles, and of used motor vehicles for sale. The term “franchised new motor vehicle dealer” is not synonymous with the term “new motor vehicle franchise dealer” as defined in section 301.550.1, RSMo. It is a narrower term that excludes dealers of recreational motor vehicles, motorcycles, motortricycles and all terrain vehicles;

(C) Historic motor vehicle dealer—A dealer of motor vehicles that are at least twenty-five (25) years old, excluding recreational motor vehicles, classic motor vehicles, motorcycles and motortricycles;

(D) Motorcycle dealer—A dealer of new or used motor vehicles operated on two (2) wheels, including motorcycles while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel, motortricycles or all terrain vehicles;

(E) Recreational motor vehicle dealer—A dealer of new or used motor vehicles designed, constructed or substantially modified for use as temporary housing quarters, including sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle;

(F) Used motor vehicle dealer—A dealer of used motor vehicles, provided that the majority of units sold are not motorcycles, motortricycles or recreational motor vehicles. The term “used motor vehicle dealer” as used in section 301.550.3, RSMo is not synonymous with the term as used in section 301.550.1, RSMo. As used in this rule, the term is a narrower term that excludes dealers of historic motor vehicles, classic motor vehicles and wholesale motor vehicles; and

(G) Wholesale motor vehicle dealer—A dealer of motor vehicles only to new motor vehicle franchised dealers or other used motor vehicle dealers or via auctions limited to other dealers of any class.

(2) For the purpose of determining pursuant to section 301.566.1, RSMo, whether a majority of the motor vehicle dealers within a



class of dealers in a city or town participate or are invited and have the opportunity to participate in an off-premises show or sale, any dealers whose official mailing address is in the city or town shall be included.

(3) If motor vehicle dealers from more than one city or town are to participate in the same off-premises show or sale, a majority of the dealers in each such city or town must participate or be invited and have the opportunity to participate.

(4) Show, as used in section 301.566, RSMo, shall be deemed to include the stationary display of all or any part of a motor vehicle dealer's inventory at any location other than the dealer's usual, bona fide established place of business, regardless of whether sales agents or other dealership employees or owners are present to promote the sale of or to sell the displayed vehicle(s) or to otherwise transact business concerning the dealership, except:

(A) Promotions or contests, conducted by a person or business who is not a licensed motor vehicle dealer, which involve the stationary display of a dealer's motor vehicle as a means of attracting attention to and participation in the promoter's event, service or product. The dealer providing the motor vehicle must remove all items identifying the dealership from the motor vehicle prior to its display, with the exception of such information as may be required by federal or state law to be displayed on the vehicle. The promoter, not the dealer, may identify the dealer only by means of a notation on its promotional material stating "vehicle provided courtesy of (name of dealer)" or similar language;

(B) The display of motor vehicles at meetings of organizations which are open only to members of the organization and not to the general public;

(C) The display of motor vehicles at the Missouri State Fair; and

(D) Parades in which one (1) or more local dealerships provide motor vehicles from their inventory to be driven as part of the parade.

*AUTHORITY: sections 301.553 and 301.566, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.566, RSMo 1988, amended 1993, 1996, 1997.*

**12 CSR 10-26.100 Advertising Regulation**

*PURPOSE: This rule sets forth requirements to ensure truthful advertising practices by*

*licensees as required in section 301.562, RSMo.*

(1) Definitions. The following words and terms, when used in this rule, shall have the following meaning, unless the context clearly indicates otherwise:

(A) Advertisement (includes the terms advertise and advertising) shall mean any oral, written, graphic, pictorial, televised, electronic or radio statement made with the purpose of soliciting business;

(B) Clearly and conspicuously shall mean the statement, representation or disclosure is of a size, color, contrast and audibility as to be readily understood or noticed; and

(C) Licensee shall mean a person(s) or entity that has obtained or is required to obtain a license pursuant to sections 301.559 et seq., RSMo.

(2) General Prohibition. Licensees may not use any advertisement or solicitation which is false, deceptive, fraudulent or which involves a material misrepresentation of fact.

(A) The identity of licensees must be clearly and conspicuously disclosed in all advertising, including classified advertising, by the name registered with the Department of Revenue.

(B) Licensees must clearly and conspicuously disclose all necessary information in a manner that can be reasonably read and understood (if print is used) or which can be reasonably heard and/or seen and understood (if audio/video is used).

(C) Licensees shall not use initials or abbreviations in any advertisement which are confusing, misleading or not understood by the average consumer. For example—

1. Licensees may use commonly understood abbreviations, such as AC, AM/FM, auto, air, 2dr, cyl and A.P.R.; and

2. Licensees may not use abbreviations that are not commonly understood, such as W.A.C. (with approved credit), A.D.P. (additional dealer profit), F.T.B. (first time buyer) or doc fee (document fee).

(D) Motor vehicles, boats or trailers advertised for sale shall be in possession of the licensee unless other conditions pertaining to availability are clearly and conspicuously disclosed.

(E) An advertisement must clearly and conspicuously identify the year, make and model of each motor vehicle, boat or trailer. The advertised price shall represent the total delivered price, excluding state and local taxes, trade-in allowances or rebates. If a factory or consumer rebate reduces the total delivered price, the terms of such rebate shall be clearly and conspicuously disclosed.

(3) Where licensees advertise in group associations, licensees shall be held individually responsible for any violations.

*AUTHORITY: sections 301.553 and 301.562, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.562, RSMo 1988, amended 1993, 1997.*

**12 CSR 10-26.110 Antique Motor Vehicle**

*PURPOSE: This rule defines "antique motor vehicle" as that term is used in section 301.570.1, RSMo.*

(1) "Antique motor vehicle" means any motor vehicle at least twenty-five (25) years of age.

*AUTHORITY: sections 301.550.3 and 301.553, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.550, RSMo 1988, amended 1993, 1997; 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997.*

**12 CSR 10-26.120 Procedures for Handling Complaints**

*PURPOSE: This rule establishes the procedures for processing complaints against persons licensed or required to be licensed pursuant to section 301.559, RSMo.*

(1) The department shall receive and process complaints against a motor vehicle dealer, motor vehicle manufacturer, boat dealer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle auction or wholesale motor vehicle dealer or persons required to be licensed as such for acts or practices which may constitute one or more violations of Chapters 301, 307 or 407 of the *Revised Statutes of Missouri*.

(A) All complaints shall be in writing and, at a minimum, shall include:

1. The complainant's name, address and telephone number(s) for home and work, if applicable;

2. Information regarding the vehicle, if applicable, that includes the vehicle year, make, model, vehicle identification number, the date of purchase, the mileage information and the purchase price;

3. Information about the person or business the complaint is against, including the name and address of the person or business,

the nature of the complaint, whether the complainant has made contact with the owner/manager of the business about the problem, and if so, the outcome, the form of relief the complaint is seeking and a list of names of any other agencies contacted in relation to the complaint;

4. Whether an attorney has been contacted or a lawsuit filed; and

5. The complainant's signature and the date the complaint was signed.

(B) Complaints may be based upon personal knowledge or upon information and belief, citing information from other sources.

(C) All complaints shall be mailed or delivered to the Motor Vehicle Bureau, Dealer Licensing Section, Post Office Box 43, Jefferson City, MO 65105-0043.

*AUTHORITY: sections 301.553 and 301.557, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.557, RSMo 1988, amended 1993, 1997.*

### 12 CSR 10-26.130 Review of License Denial or Disciplinary Action

*PURPOSE: This rule establishes procedures for review of a license denial or the imposition of discipline.*

(1) The department shall determine the qualifications of applicants and shall investigate violations of applicable statutes and rules by licensees. Upon a finding of grounds, as set forth in section 301.562, RSMo, the department may refuse to issue or renew a license or may impose disciplinary action on the licensee. Such disciplinary action may include private reprimand, probation for a period of one (1) day to five (5) years, suspension of license from one (1) day to six (6) days or revocation of license. Any decision to refuse licensure or to impose disciplinary action shall be approved by the director or director's designee.

(2) Should a refusal of licensure or the imposition of discipline be deemed appropriate, the department shall issue a written notice thereof by certified mail to the applicant/licensee. The written notice shall contain—

(A) The reason(s) for refusal of licensure or imposition of discipline;

(B) The penalty to be imposed and the effective date thereof; and

(C) A statement of the manner in which the applicant/licensee may request a review of the

department's decision to refuse licensure or impose discipline.

(3) A request for review of the department's decision shall—

(A) Be in writing;

(B) Specifically refer to the notice of refusal/discipline from which review is sought or contain a copy of that notice;

(C) Specifically set forth the reasons(s) for review;

(D) Be signed by the applicant/licensee and set forth the applicant's/licensee's current address. All future notices of proceedings pertaining to the request for review shall, unless otherwise specifically changed in writing, be mailed to the address so indicated; and

(E) Be filed with the department in writing within thirty (30) calendar days following issuance of the written notice.

(4) The failure of the applicant/licensee to request a review of the department's decision within the thirty (30) days following issuance of the written notice, or the applicant's/licensee's withdrawal of a request for review, shall result in the department's decision becoming final and shall constitute a waiver by the applicant/licensee of any right to request further review by the department or otherwise.

(5) A request for review shall be deemed a request for hearing and shall stay the imposition of discipline pending the director's final decision. A hearing shall be conducted accordingly unless waived pursuant to 12 CSR 10-26.160.

(6) Following hearing, the department shall issue a final decision, separately stating findings of fact and conclusions of law. The final decision shall be in writing and shall be certified mailed to the applicant/licensee and any attorney of record.

(7) Except as set forth in section (4) above, the final decision of the department may be appealed pursuant to the provisions of Chapter 536, RSMo.

*AUTHORITY: sections 301.553 and 301.562, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997; and 301.562, RSMo 1988; amended 1993, 1997.*

### 12 CSR 10-26.140 Hearing Procedures

*PURPOSE: This rule outlines the procedure for conducting hearings.*

(1) All hearings pursuant to 12 CSR 10-26.140 shall be conducted at the department's office in Jefferson City, unless otherwise specified by the department.

(2) Notice of the hearing date, time and location shall be mailed to the applicant/licensee a minimum of ten (10) days prior to the scheduled date of hearing. A hearing may be continued only for good cause shown.

(3) All hearings shall be presided over by a hearing officer designated by the department.

(4) The department shall be represented at hearing by its general counsel, the attorney general, or both.

(5) The applicant/licensee may be represented at hearing by legal counsel.

(6) Parties may present evidence at hearing and utilize affidavits to the extent permissible under Chapter 536, RSMo. Parties may subpoena or require the attendance of witnesses at hearing at their own expense. Witnesses at hearing shall be subject to examination and cross-examination as provided by law.

(7) Hearing proceedings shall be suitably recorded and preserved. A record of such proceedings shall be furnished to any party at cost.

*AUTHORITY: section 301.553, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997.*

### 12 CSR 10-26.150 Designated Hearing Officer

*PURPOSE: This rule establishes the duties and powers of a hearing officer.*

(1) The department shall designate a hearing officer or hearing officers to conduct hearings and prehearing conferences as set forth in 12 CSR 10-26.140 and 12 CSR 10-26.170. A hearing officer for such purposes shall be empowered to make decisions concerning the conduct of hearings on behalf of the department.

(2) A hearing officer shall be authorized to—





- (A) Administer oaths or affirmations to witnesses;
- (B) Issue subpoenas for the attendance of witnesses or the production of documents and other tangible items;
- (C) Rule on questions of evidence;
- (D) Rule on motions which may be filed during the course of proceedings; and
- (E) Make any orders and rulings necessary to maintain order and decorum at hearing.

(3) A hearing officer shall cause the record of proceedings to be suitably recorded and preserved.

(4) Following hearing, a hearing officer shall prepare a proposed decision, separately stating findings of fact and conclusions of law.

*AUTHORITY: section 301.553, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997.*

**12 CSR 10-26.160 Waiver of Hearing**

*PURPOSE: This rule sets forth requirements which must be met for a waiver of hearing.*

(1) An applicant/licensee who requests a hearing due to denial of licensure or the imposition of discipline may withdraw their hearing request by providing written notice to the hearing officer any time prior to the hearing.

(2) An applicant/licensee who fails to appear at any hearing set forth in 12 CSR 10-26.140 waives any right to further hearing, unless good cause is shown.

(A) The reasons for failing to appear at hearing shall be filed in writing with the hearing officer within fifteen (15) days following the scheduled hearing date.

(B) If the hearing officer finds that the failure of the applicant/licensee to appear at the hearing was for good cause, the hearing officer shall reschedule the hearing as the interests of justice may require.

*AUTHORITY: section 301.553, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997.*

**12 CSR 10-26.170 Prehearing Conferences and Stipulations**

*PURPOSE: This rule establishes specific requirements needed to set prehearing conferences.*

(1) The hearing officer designated by the department may set a prehearing conference to facilitate the resolution of issues and to expedite the hearing.

(2) At a prehearing conference, the parties shall be prepared to discuss—

- (A) The simplification of issues;
- (B) The necessity or desirability of consolidating any issues, or to consolidate hearings, to avoid needless duplication and additional expense;
- (C) Admissibility of documents and other evidentiary matters;
- (D) Limitation on the number of witnesses; and
- (E) Other matters necessary or desirable to an expeditious disposition of the hearing.

(3) The parties may enter into stipulations as to some or all of the facts either as a result of a prehearing conference or otherwise. All stipulations shall be reduced to writing and shall be signed by the parties or their attorneys of record. Stipulations shall be binding upon the parties and shall foreclose further evidence on the facts or issues so stipulated.

*AUTHORITY: section 301.553, RSMo Supp. 1998.\* Original rule filed Nov. 1, 1999, effective May 30, 2000.*

*\*Original authority: 301.553, RSMo 1988, amended 1989, 1993, 1995, 1997.*