

DEPARTMENT OF REVENUE

Motor Vehicle Dealer Board

DEALING IN MOTOR VEHICLES

1 CCR 205-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Statement of Basis: The statutory basis for the regulations is C.R.S. 12-6-104(3) (a).

REGULATION 12-6-101(11)

All manufacturers doing business in the state of Colorado, irrespective of whether they maintain or have places of business herein, must be licensed as such.

The sale of any new and unused motor vehicles, either directly or indirectly in the state of Colorado shall constitute doing business in the state by the manufacturer and shall subject such manufacturer to the requirements of this article.

REGULATION 12-6-102 (1.5)

The term, "Computer Display," means any electronic device capable of presenting a commercial message.

REGULATION 12-6-102(12)

A new motor vehicle, is defined as "any motor vehicle being transferred for the first time from a manufacturer or importer, or dealer or agent or agent of a manufacturer or importer, and which motor vehicle has heretofore not been used, and is what is commonly known as a "new motor vehicle"."

For the purpose of administration of the Motor Vehicle Dealers and Salesperson Licensing Law, a "new" motor vehicle shall be deemed to be a motor vehicle sold by a Colorado licensed motor vehicle dealer, as defined in the Act, who is franchised by the manufacturer of that make of motor vehicle to sell such motor vehicles. Said motor vehicle shall not have been used as a demonstrator or for private use, or for any other purpose which would indicate "use" in the strict definition of the word "used." A motor vehicle which has been used by a dealer solely for the purpose of demonstration to prospective customers shall be considered a "new vehicle", unless such demonstration use has been for more than Fifteen Hundred (1500) miles.

New motor vehicles may be exchanged between dealers enfranchised to sell the same make of vehicle by a proper assignment of the Manufacturer's Certificate of Origin.

Only wholesalers or "new" motor vehicle dealers franchised by manufacturers to sell their motor vehicles will be allowed to sell "new" motor vehicles, and only then if they have not previously been sold except by the manufacturer to such dealer.

A “used motor vehicle” is defined as any motor vehicle which has been sold, bargained, exchanged, given away, or the title thereto transferred from the person who first took title thereto from the manufacturer or importer, dealer or agent of the manufacturer or importer, or so used as to have become what is commonly known as a “secondhand motor vehicle.” In the event of transfer on the certificate of origin, from the original franchised dealer to any other dealer or individual other than a franchised dealer of the same make of vehicle, the vehicle shall be considered a “used” motor vehicle, and must be titled in the new owner’s name. Vehicles with more Than Fifteen Hundred (1500) miles of demonstration use shall be considered used’ vehicles. Such “demonstrators” and other motor vehicles which have been used by a dealer prior to their sale shall be titled in the dealer’s name and sold as “used” motor vehicles.

All vehicles which do not qualify as “new” motor vehicles shall be deemed to be “used” motor vehicles for the purpose of administration of this Act.

REGULATION 12-6-102(13)

“Profit” may be “gain, benefit or advantage,” but “gain, benefit or advantage” does not necessarily mean only “profit.”

Profit may be defined as the difference between the price paid and the market value of the vehicle after deduction of the expenses incurred in the sale thereof.

Gain of money or other thing of value includes but is not limited to any increase or addition to what one has of that which is of profit, advantage or benefit.

A profit or gain does not necessarily mean a direct return; and therefore, a saving of expense which would otherwise be incurred is also a profit or gain to the person benefited.

REGULATION 12-6-102(16)

1. As used in this regulation, a “motor vehicle dealer” means either a licensed motor vehicle dealer or licensed used motor vehicle dealer.
2. A motor vehicle dealer may sell motor vehicles at special sales events, shows, or other organized events, including, for example, at the National Western Stock Show, the Colorado State Fair, the Greeley Stampede, or the Denver Auto Show. In order to sell motor vehicles at a location away from the dealership, a motor vehicle dealer must apply for the appropriate off-premise permit. A motor vehicle dealer must not engage in any sales activity at an off-premise location until the board approves the appropriate off-premise permit.
3. The board recognizes two classes of off-premise permit based upon specific sales-related conditions and restrictions. These are:
 - a. Class One --- a Limited Sales Activity Off-premise Permit. The following conditions and restrictions apply to this permit:
 - 1) Licensed salespersons or owners authorized to sell must be present at the off-premise location at all times when the public is present; and,
 - 2) Licensed salespersons or owners authorized to sell may negotiate the terms of a sale at the off-premise location; and,
 - 3) The parties shall not execute sales-related documents at the off-premise location, but must return to the dealership to execute any sales-related documents.

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- b. Class Two --- a Full Sales Activity Off-premise Permit. The following conditions and restrictions apply to this permit:
 - 1) Licensed salespersons or owners authorized to sell must be present at the off-premise location at all times when the public is present; and,
 - 2) Licensed salespersons or owners authorized to sell may negotiate the terms of a sale at the off-premise location; and,
 - 3) The parties may execute sales documents at the off-premise location.
 4. The board issues an off-premise permit for a restricted number of days, as follows:
 - a. Up to six calendar days from start to finish is allowed for an off-premise permit, except as provided below;
 - b. Up to twenty calendar days from start to finish is allowed for an off-premise permit for the National Western Stock Show, the Colorado State Fair, the Greeley Stampede, or the Denver Auto Show.
 - c. The board may, in its informed discretion, approve consecutive off-premise permits for a recurring special event at the same location for a limited period of time.
 5. A motor vehicle dealer must make an off-premise permit readily-available for inspection by any person at the off-premise location during the entire period that the permit is valid.
 6. A motor vehicle dealer must ensure that every person it uses for sales activity at an off-premise sales event has been issued a Colorado motor vehicle salesperson's license by no later than fourteen calendar days prior to the off-premise event.
 7. By no later than fourteen calendar days prior to the off-premise event, a motor vehicle dealer must submit a completed application form for an off-premise permit. The board shall reject for filing any application for an off-premise permit that is not accompanied by a remittance in the full amount of the fee for the permit. The board may reject for filing any application that does not completely satisfy the requirements of the application form and its instructions.
 8. A motor vehicle dealer may occasionally display vehicles without an off-premise permit at an event or location away from the dealership. Sales activity is prohibited. However, a person may be present to provide security or to distribute information about the dealership and its vehicles.
 9. The books and records of each dealer, excluding financial statements and tax returns, shall be open to inspection Monday through Friday between 9AM and 5PM by the Board and its agents and representatives with cause, including ongoing investigation, compliance audit, sworn complaint, order of the Board. All records, including financial records and tax returns shall be provided upon subpoena by the Board. However, all records provided by a Dealer to the Board or its agents or representatives, either voluntarily or pursuant to a subpoena, shall be made available to the Dealer for testing, inspection, or copying, under direct supervision by the Auto Industry Division staff, upon a request by the Dealer.

10. Additional locations which are immediately adjacent to the principal place of business of the licensed dealer shall be considered contiguous for the purpose of this statute. "Immediately adjacent" shall mean either next to or directly or diagonally across from the dealership even if a public road or thoroughfare is between the additional location and the dealer's principal place of business. Subject to any applicable local zoning or sign requirements, the additional location shall not have any signage which identifies the additional location as being operated under any name other than the name or tradename of the licensee's principal place of business. The additional location may not advertise under a different name than that under which the dealership is licensed.

REGULATION 12-6-102(17)

See Regulation 12-6-102(13).

REGULATION 12-6-102(18)

No person may hold both a wholesaler license and a motor vehicle salesperson license at the same time.

A wholesaler may not employ a motor vehicle salesperson.

For discussion of profit or gain, see Regulation 12-6-102 (13).

Wholesalers shall use a name other than their personal name on all business documents for the purchase and sale of motor vehicles to differentiate between a wholesaler and a private party.

REGULATION 12-6-104(3)(a)

The executive director and his agents or employees shall have the authority to carry out ministerial acts involving the enforcement of rules and regulations as specifically delegated by the Motor Vehicle Dealer Board.

REGULATION 12-6-104(3)(d)(II) DELEGATION OF AUTHORITY

The Board delegates to the Executive Secretary and the Auto Industry Division, the authority to approve and issue all licenses within the authority of the Board in accordance with guidelines established by the Board.

REGULATION 12-6-104(3)(e)

The executive secretary is delegated the authority to enter a default against a licensee who fails to file a written answer as required by 24-4-105(2)(b), C.R.S. Upon entering the default, the executive secretary shall vacate the scheduled hearing and send notice by first class mail to the licensee of the default, and, that the Board will consider appropriate sanction at its next meeting. The licensee shall also be given notice of the right to have the default set aside upon a showing of good cause. If the licensee fails to demonstrate good cause to set aside the default within ten days of the date of the default, the Board's order will become final.

REGULATION 12-6-104(3)(f) HEARING PROCEDURES

- (I) The board president will normally preside at hearings before the full board, or in the president's absence, such board member as may be designated by a majority of the board members present, may preside and conduct the hearing.

- (II) The presiding officer shall rule on all evidentiary and procedural matters during the course of the hearing. Rulings on motions prior to or after the hearing, and the findings, conclusions, and order shall be determined by a majority of board members present. In the event a motion is filed requesting relief from a board order, the effects of which will occur prior to the next scheduled meeting of the board, the board president may rule on said motion, and the executive secretary shall issue the written order on behalf of the board. In the absence of the president, the first vice president or second vice president may rule on any motion.
- (III) Prehearing discovery before a single hearing officer will normally be limited to the exchange of the name, address, and telephone number of witnesses expected to testify, a brief summary of their expected testimony, and documents intended to be introduced into evidence at hearing. The identity of witnesses and documents shall be provided by each party, and received by the other, not later than 9 calendar days prior to the hearing. Failure to comply may result, at the sole discretion of the hearing officer, in the exclusion of the witnesses and/or documents not disclosed. Any party may, at their own expense, interview identified witnesses prior to the hearing.
- (IV) Discovery in hearings before the full board shall be governed by the provisions of section 12-6-119, C.R.S.
- (V) An original and 10 copies of all documents intended to be introduced into evidence at hearings before the full board shall be provided for distribution to the board and the opposing party. Respondent's and applicant's exhibits shall be marked alphabetically. The Department of Revenue's exhibits shall be marked numerically. For hearings before a single board member, each party shall provide an original and copies for the opposing side and the hearing officer.
- (VI) License applicants shall have the burden of proof to demonstrate to the board that they meet all the qualifications for licensure. If denied a license by the board, applicants shall have the burden of proof to demonstrate that the specific reasons given in the notice of denial, should not preclude the issuance of a license. Salesperson license applicants shall provide written proof that the employing dealer is aware of the grounds giving rise to the initial license denial, and, that said dealer shall be responsible for the actions of the salesperson in the course of employment in the event that a restricted license is approved by the board.
- (VII) Motions shall be served on the board through its executive secretary with proof of service on the opposing party. Except in the most extraordinary circumstances, motions shall be filed not later than 30 calendar days prior to the hearing. A response to any motion shall be filed within 5 business days of the filing of the initial motion. Failure to timely comply may result in the motion being denied. Motions will be considered by the board at its next opportunity. The pendency of motions shall not be cause to continue a scheduled hearing.
- (VIII) Continuances will not be granted unless timely filed and with good cause shown. Unreasonable delay in securing legal counsel or failing to timely exercise discovery rights may not constitute "good cause", except in the most extraordinary circumstances.

REGULATION 12-6-104(3)(f)(I) INVESTIGATIONS

The Board delegates to the Executive Director or the Executive Director's designee the authority to initiate investigations of complaints filed under the jurisdiction of the Board with the Auto Industry Division, or initiated by the Board, pursuant to and in accordance with guidelines approved by the Board.

REGULATION 12-6-104(3)(g)

1. An applicant for a license issued by the board must complete and submit the appropriate application form. The board shall reject for filing any application that is defective in any one or more of the following ways: a) the application is not accompanied by a remittance in the full amount of the fee for the specific license; and, b) the application does not include a copy of the required bond in the correct amount. The board may reject for filing any application that does not completely satisfy the requirements of the application form and its instructions.
2. An applicant whose license application has been accepted for filing must respond to every request for additional information within the time allowed and in the manner required by the requestor.
3. An applicant must include with an application the full name of, date of birth of, current residence address for, and other required identifying information related to each natural person who possesses one or more of the following characteristics:
 - a. an ownership, financial, or equity interest in the applicant; or,
 - b. an ability to control the applicant or to exercise significant financial or operational influence over the applicant.

An applicant that is subject to the reporting requirements of the "Securities Exchange Act of 1934," as amended, 15 U.S.C. § 78a et seq., need not include the identifying information in this paragraph 3 for any stockholder.

4. All information submitted to the board, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the board shall be grounds for suspension, revocation or denial of the license.
5. The board may deny a license for any one of or any combination of the following reasons:
 - a. the application is incomplete; or,
 - b. the information provided in the application does not fulfill a requirement of any one of or any combination of the following: 1) the application form; 2) the instructions for the application; 3) this regulation; or, 4) other relevant law or regulation; or,
 - c. the applicant either did not respond to a request for additional information or provided an inadequate response, or both; or,
 - d. the information contained in the application or the associated background investigation, or both, establishes a separate basis in relevant law or regulation to deny the license.
6. Not less than ten calendar days prior to changing the trade name of a licensed business, the licensee must submit a written application to the board seeking approval for the change.
7. Additional places of business are allowed in the name of the principal place of business, but they must display a sign with the same name as that required by the board for the principal location, and, if the additional place of business is more than just a storage lot, the licensee must provide adequate office and sanitary facilities. Locations contiguous to the principal place of business are not considered additional locations. The books and records of an additional location may be maintained at the principal place of business.

8. Prior to a licensee's doing business under a different name at an additional place of business, the licensee must submit for the board's approval a new, complete application, together with the appropriate fee, and the correct bond.
9. Prior to a licensee's making a material change to the operating entity under which the licensee does business, the licensee must submit for the board's approval a new, complete application, together with the appropriate fee, and the correct bond.
10. A licensee must conduct business solely under its licensed name. However, if a licensee is one of several dealers with common ownership, the licensee may advertise under a name that reflects the common ownership. Designations like the following, which clearly reflect common ownership, are acceptable solely for advertising purposes: "John Doe Dealerships" or "Joe's Automotive Group."

REGULATION 12-6-104(3)(i)

A licensed motor vehicle dealer must display a permanent sign or device at its principal place of business and at every other approved business location. The sign or device must identify the dealer by its licensed name and be clearly visible to the public from outside the building that houses the dealership or from the public entry area of the building that houses the dealership.

REGULATION 12-6-104(3)(j)

- 1). Applicants may use the information provided by the Auto Industry Division to study for the examination. The following examination criteria shall apply to the examination process and the examination results: 1) the numerical percentage that will constitute a passing score on the examination, as determined from the ratio of questions correctly answered to questions asked shall be eighty-five percent (85%); 2) the number of times in a calendar day that an applicant may take the examination before being timed out prior to attempting the examination again shall be two (2); 3) the manner in which an applicant and others shall certify both the applicant's compliance with the required examination process and the authenticity of the examination results shall be by submission of an examination affidavit on the form approved by the Board.
- 2). An applicant shall neither request nor permit any other person, including but not limited to any person administering the examination, to take the examination on his behalf or otherwise to assist him or to participate in the taking of the examination. An applicant shall neither request nor accept answers to examination questions from any other person, including but not limited to any person administering the examination, either before or during the examination. An applicant who violates this rule is subject to denial, suspension, or revocation of his license. Any licensee who either 1) assists an applicant in violating this rule, 2) conspires with others in violating this rule, 3) falsifies information regarding the results of an applicant's licensing examination, or 4) otherwise falsely declares to the Board or its representatives the manner in which an applicant took an examination, is subject to disciplinary action to the limits of the Board's jurisdiction.
- 3). If an applicant is not licensed within one year of passing the examination, the score is removed from the record and the person must retake and pass the examination again, in accordance with the Board's examination criteria, before a license can be issued.
- 4). The employing dealer or designated manager of the employing dealer, the Auto Industry Division, or a third party approved by the Board, may administer examinations.
- 5). If an applicant has held a license during the previous twelve months, the applicant shall not be required to retake the examination.

REGULATION 12-6-104(3)(k) MANDATORY DISCLOSURES

A. DISCLOSURE FORM

1. The Board will prescribe a disclosure form consistent with the provisions of this regulation.
2. The name of the disclosure form will be: "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale."
3. The Board may, at any time, reexamine and make revisions to the disclosure form, consistent with the provisions of this regulation.
4. The disclosure form in effect prior to the passage of this regulation shall remain in effect until the effective date of the initial edition of the disclosure form prescribed by the Board pursuant to this regulation.

B. DEFINITIONS

1. Contract - For purposes of this regulation, contract means any written agreement, such as a purchase agreement, buyer order or invoice, between a dealer and a buyer for the sale of a motor vehicle, excluding the Retail Installment Sales Contract ("RISC").
2. Dealer - For purposes of this regulation, dealer means a motor vehicle dealer or a used motor vehicle dealer or a representative of the dealership.
3. Deposit – Money or other thing of value accepted by a Dealer as consideration for that Dealer's agreement to hold a motor vehicle for a buyer.
4. Down Payment – Money, trade-in, or money and trade-in made as partial payment towards the purchase of a motor vehicle.
5. Guarantee - For purposes of this regulation, guarantee means a written document or oral representation that would lead a buyer to have a reasonable good faith belief that the financing of a vehicle is certain.

C. APPLICATION

1. The disclosure form is not required for a sale solely between Dealers, between Wholesalers, or, between a Dealer and a Wholesaler.
2. At the time that the buyer signs a Contract, the disclosure form must be read, initialed and signed by the buyer and the Dealer.
3. The completed and signed disclosure form is a separate document that is part of the Contract.
4. The Dealer and buyer must complete only one disclosure form at the time of the signing of a Contract.
5. At the time of the signing of a Contract, a copy of the Contract, including a completed and signed disclosure form, must be given to the buyer.

6. The disclosures in the Credit Sale section of the disclosure form do not apply when the Contract is not contingent upon financing provided by or through the Dealer. In that event, the Credit Sale section should be crossed out.
7. A Dealer must complete a disclosure form with an interest rate that the Dealer reasonably believes can be obtained based on the creditworthiness of that prospective buyer.
8. The interest rate in the disclosure form must be the same as the interest rate in any Retail Installment Sale Contract signed by the buyer for the same vehicle.

D. USAGE FEE AND MILEAGE CHARGE

1. The Dealer must notify the buyer within ten (10) calendar days of the date the Contract is signed by the buyer, in the event financing cannot be arranged as originally agreed upon.
2. If the Dealer and buyer agree that the Dealer will continue to attempt to arrange financing after ten calendar days, the Dealer must remind the buyer in writing that daily usage and mileage rates stated in the disclosure form, apply in the event financing cannot be arranged as originally agreed upon.
3. The Dealer and buyer must complete and sign a new disclosure form that reflects the new interest rate if:
 - a) funding cannot be arranged at or below the interest rate set forth in the preceding disclosure form; and
 - b) the Dealer and the buyer agree that the Dealer will attempt to arrange financing at an interest rate different than previously agreed upon.
4. The Dealer must retain a copy of all previously executed disclosure forms.
5. The Dealer must write in "NA" for "not applicable" or "Zero" in the dollar and cents fields, if the Dealer does not charge usage and mileage fees.

REGULATION 12-6-104(3)(m)(I)(A) HEARING PROCEDURES BEFORE A HEARING OFFICER

1. Hearings conducted before a single board member pursuant to section 12-6-104 (3)(m)(i)(a), C.R.S., shall be conducted in accordance with the Colorado Administrative Procedure act, sections 24-4-104 and 105, C.R.S., and board 12-6-104(3)(f).
2. The executive secretary may, on behalf of the board, assign the individual board member on a rotating basis, taking into consideration the following factors:
 - (A) Applicants for a salesperson license will normally be given expedited processing. The board member assigned will be that individual who is available and willing to conduct the hearing. Geographic location of the board member and the applicant shall have primary consideration.
 - (B) Any issue involving a complaint which may be classified as arising from a business competition issue between motor vehicle dealers, used motor vehicle dealers, or wholesalers, or, a dispute involving an alleged violation of section 12-6-108 (1) (b), C.R.S, shall not be heard by a member of the board who is a party to a dispute, or who has a pecuniary interest in the outcome of the matter.

- (C) "Business competition issue" is defined as a dispute or complaint arising from or directly related to market share matters, or the alleged failure to comply with regulatory or statutory requirements by any one licensee of the board, or said licensee's agent, against another licensee.
- (D) Initial decisions of a single board member hearing shall be processed in accordance with the Colorado Administrative Procedure Act, sections 24-4-105 (13) - (16), C.R.S.

REGULATION 12-6-104(3)(o)

When considering whether to impose a fine and the amount of the fine, or other administrative penalty, the Board will consider aggravating and mitigating circumstances, the degree of harm to a motor vehicle purchaser, severity of offense, and whether there is a pattern of violations or repeat offenses.

REGULATION 12-6-104(4)

The Motor Vehicle Dealer Board shall apply administrative penalties in the cases it considers based upon the following compliance and enforcement standards:

1. All matters brought to the board for hearing shall be presented either electronically or in written hard copy by sworn affidavit asserting probable cause to believe that the events set forth in the affidavit constitute a violation of regulation or law which the board is empowered to enforce.
2. The investigation section of the Auto Industry Division in accordance with guidelines established in cooperation with the board will determine whether or not the results of an investigation shall be referred to the board by affidavit.
3. Except as otherwise provided for in this regulation, no complaint shall be referred to the board by the division until such time as the division has considered the licensee's response to the complaint, if any, and has substantially completed its investigation into the matters alleged.
4. A matter shall be referred to the board whenever the following conditions are met:
 - (a) When the licensee has engaged in a pattern of violations. A pattern for this purpose is defined as 2 or more founded complaints occurring within the preceding 12 months. No matter resolved by a licensee based upon the 10 day letter program of the division shall be considered for the purpose of establishing a pattern pursuant to this provision.
 - (b) When a licensee's conduct appears to the division to be willful and deliberate or the licensee's continued conduct presents a clear and present danger to the public health, safety or welfare.
 - (c) When the licensee and the complainant are unable to reach an acceptable resolution of an actionable complaint or when a licensee fails to present a reasonable offer to resolve a complaint.
 - (d) When the division determines that the conduct of any licensee is such that it cannot properly be corrected without the intervention of the board.
5. Upon presentation to the board of a matter by the division the board shall dispose of all such matters upon its review and evaluation of the affidavit of probable cause by:

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- (a) The board may accept the case for hearing and appoint itself upon unanimous vote, an administrative law judge or a hearings officer to hear the matter, as is appropriate. In all such cases the board shall refer the case to the attorney general for the commencement of formal disciplinary proceedings, drafting of notice of hearing and notice of charges and prosecution of the case.
 - (b) The board may direct the executive secretary to propose a resolution of the matter to the licensee, to attempt to enter into a stipulated disposition of the matter or to otherwise resolve the matter without a formal hearing.
 - (c) The board may refer the matter to another agency if appropriate.
 - (d) The board may refer the matter back to the division for further investigation without taking any further action at that time.
 - (e) The board may determine not to exercise any authority over the matter and advise the division that it declines to take any action and defers to the civil remedies provisions found in section 12-6-122 C.R.S.
 6. The board shall, from time to time and as is appropriate and necessary agree with the division to create and update compliance and investigation guidelines to be used by the division for evaluating matters prior to referring them to the board.
 7. The board shall impose administrative penalties based upon its discretion except that it may not exercise any discretion with regard to mandatory disqualifying terms and conditions established by statute. Upon exercising its discretion the board shall consider the licensee's history with the board and the impact of any monetary fine on the licensee's ability to restore any victim to the status quo.
 8. Fines imposed by the board shall be punitive and not compensatory.
 9. The board may reduce any fine it imposes upon a licensee by any amount said licensee pays to victims in order to restore the financial loss suffered by victims subjected to the conduct of the licensee which conduct is the subject matter giving rise to the fine imposed by the board.
 10. Any licensee appearing before the board for imposition of an administrative penalty for the first time shall be subject to 50% of the fining authority of the board (or its designee) as provided for in article 6, of title 12, CRS. In addition, the board shall also consider mitigating and aggravating factors when imposing administrative penalties.
 11. Any licensee appearing before the board for imposition of an administrative penalty for a second time on the same or similar offense within a 24 month period shall be subject to at least 75% of the fining authority of the board (or its designee) as provided for in article 6, of title 12, CRS. In addition, the board shall also consider mitigating and aggravating factors when imposing administrative penalties.
 12. Any licensee appearing before the board for imposition of an administrative penalty for a third or more occurrence of any fineable offense within a 24 month period shall be subject to the full fining authority of the board (or its designee) as provided for in article 6, of title 12, CRS. In addition, the board shall also consider mitigating and aggravating factors when imposing administrative penalties.

REGULATION 12-6-105(1)(b)

In addition to any other duties delegated to the Executive Secretary of the Motor Vehicle Dealer Board contained in the board's regulations, the board delegates to the Executive Secretary the authority to perform the following ministerial acts:

- (I) The Executive Secretary may set and maintain the board's docket, grant motions for continuances and motions for enlargements of time, issue subpoenas, and issue final agency orders pursuant to the board's action. The Executive Secretary may honor, within a reasonable time, a written request from an interested person to appear before the board at a regularly scheduled board meeting.
- (II) The Executive Secretary may write, sign, and issue board orders and correspondence on behalf of the board consistent with the board's action or direction. The Executive Secretary may sign and issue notices of charges after the board has referred the matter for a hearing pursuant to section 12-6-104 (3)(f)(II), C.R.S., and after drafting and review by the office of the Attorney General.
- (III) The board delegates to the Executive Secretary the authority to conduct informal fact-finding conferences and make recommendations to the board for the granting or denying of an application.

REGULATION 12-6-105(1)(c) [Recodified as 1 CCR 210-2]

REGULATION 12-6-105(1)(d) [Recodified as 1 CCR 210-2]

REGULATION 12-6-105(1)(e) [Recodified as 1 CCR 210-2]

REGULATION 12-6-105(1)(f) [Recodified as 1 CCR 210-2]

REGULATION 12-6-108(1)(b) COMPENSATION DISCLOSURES

1. Whenever a used motor vehicle dealer negotiates the sale, exchange, or lease of a motor vehicle or used motor vehicle not owned by the used motor vehicle dealer, the following form will be deemed adequate to satisfy the disclosure requirements of section 12-6-108(1)(b), C.R.S., for the used motor vehicle dealer. This form is an example of adequate disclosure; nothing herein shall be construed to limit permissible disclosure to the information shown.

Pursuant to Colorado law, _____ hereby discloses to _____
(used m.v. dealer) (consumer)

1. My dealership will receive compensation from the consumer. (Check one)
_____ Yes _____ No

2. My dealership will receive compensation from the owner of the vehicle if a sale, exchange or lease is concluded. (Check one)
_____ Yes _____ No _____
(NAME OF OWNER)

Used Motor Vehicle Dealer Dealer # Authorized Dealer Signature Date

I have been provided a copy of the above disclosure prior to completion of such sale, exchange or lease of a motor vehicle not owned by the licensee

Signature of Consumer Printed Name Date

REGULATION 12-6-108(1)(c)

- 1). A temporary license shall not issue, and a salesperson shall not be allowed to offer, negotiate or sell vehicles unless the Board has received and date stamped at the main office of the Auto Industry Division a signed application, completed in every respect, with all required details and attachments, including bond, fees, and the licensing examination affidavit required by Regulation 12-6-104 (3) (j). Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.
- 2). All original applicants shall have a criminal history background investigation conducted prior to the issuance of a permanent license.
- 3). No temporary license shall issue to any person who has been the subject of disciplinary proceedings before the Board within the past 5 years, unless such disciplinary proceedings resulted in dismissal of all charges. Such person's application shall require prior Board review and approval of a license before said person shall be permitted to engage in activities requiring a salesperson license.
- 4). Any salesperson applicant who has been notified by the Auto Industry Division that additional documentation is required by the Board before a license can be approved, and who fails to timely comply with the request for information, shall be deemed not to have submitted a complete application and may not engage in activities requiring a motor vehicle salesperson license until the Board has reviewed and approved the application.
- 5). The Executive Secretary may issue a notice of denial to any applicant who fails to provide documentation as requested, if the application discloses, on its face, grounds for denial under section 12-6-118 (5) or (6), C.R.S.
- 6). Any person who allows such applicant to engage in activities requiring a motor vehicle salesperson license may be subject to disciplinary action for violation of section 12-6-109 C.R.S.

REGULATION 12-6-108(1)(e)

All wholesalers must have a place of business or business address which place or address must contain an office wherein the wholesaler shall keep business books and other records. Such books and other records, excluding financial statements and tax returns shall be open to inspection Monday through Friday between 9am and 5pm by the Board and its agents and representatives. All records, including financial records and tax returns shall be provided upon subpoena by the Board.

REGULATION 12-6-108(1)(h)(l)

Each wholesale motor vehicle auction dealer or applicant shall report to the Board in writing whether such dealer or applicant is providing a check and title insurance policy or written guarantees of titles to its customers. A copy of such policy or guarantee shall be included with the report. Any change shall be reported to the Board in writing in one business day.

REGULATION 12-6-108.5(1)

Evidence of a passing test score shall be as required by Regulation 12-6-104 (3) (j).

REGULATION 12-6-108.5(2)

Applicants for an out-of-state temporary dealer license shall submit completed application, bond, and license fee. Specifically identified events shall include the Colorado State Fair, National Western Stock Show, and the annual Denver RV, Sports, Boat and Travel Show. Such out-of-state dealer shall provide evidence that the manufacturer has authorized the dealer to do business at such location in Colorado. No more than three out-of-state dealer licenses shall be issued to any one dealer per license year.

REGULATION 12-6-109

Each salesperson's license shall be posted in a conspicuous place in the dealer's place or places of business.

REGULATION 12-6-110(3)(a) RENEWAL OF LICENSES

Any renewal application submitted after the expiration date of the license may be assessed a late fee as permitted by law.

REGULATION 12-6-113

See Regulation 12-6-104 (3) (j).

REGULATION 12-6-114 [Recodified as 1 CCR 210-2]

REGULATION 12-6-115(5) [Recodified as 1 CCR 210-2]

REGULATION 12-6-115(6)

If the executive secretary of the board is served with process for a licensee, the executive secretary shall, no later than seven calendar days after receipt of the process, mail a copy of the served documents, by certified mail with return receipt request, to the licensee at the licensee's address last furnished to the board by the licensee and to the surety on the licensee's bond at the surety's address on the bond.

REGULATION 12-6-115(7)(d)

1. The board hereby delegates to the board's executive secretary the authority to execute all actions within the authority of the board respective to the Pre-licensing Education Program.
2. The executive secretary shall provide public notice a) immediately after the effective date of these rules, and b) once every year thereafter, by means of publication on the board's website, which public notice shall contain a general description of the Pre-licensing Education Program requirements and shall indicate the procedures by which interested persons may apply to obtain approval from the executive secretary to provide a Pre-licensing Education Program.
3. The executive secretary shall evaluate each Pre-licensing Education Program application for compliance with the requirements of the relevant statutes and rules.
4. An approval of a Pre-licensing Education Program is for a period of one year from the date of approval.
5. A Pre-licensing Education Program Provider can reapply by means of an updated application for an approval of its program in subsequent years.
6. The executive secretary shall, by means of a Letter of Approval, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been approved in its initial or a subsequent term, of the specific dates of the one-year term of the approval and of the procedures to apply to renew the approval for subsequent one-year terms.
7. The executive secretary shall, by means of a Letter of Denial, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been denied in its initial or a subsequent term, of the basis and reasons for the denial and the procedure to follow to appeal the denial to the board.
8. Any recipient of a Letter of Denial shall have the right to appeal that denial to the board by means of a request for a hearing in writing within sixty (60) days after notice of the denial.
9. Any approved Pre-licensing Education Program Provider or prior approved Pre-licensing Education Program Provider may bring to the board a complaint or concern about the administration of the program application and approval process. The Provider must first seek to resolve the matter with the executive secretary. The Provider may bring its complaint or concern to the board by means of a request in writing within thirty (30) days of the failure of the Provider's efforts to resolve the matter with the executive secretary.
10. The executive secretary shall provide to the board the name of each approved Pre-licensing Education Program Provider and the term of approval for that Provider.
11. The executive secretary shall post on the board's website a list of the names, addresses, and contact information, as provided to the executive secretary, for each approved Pre-licensing Education Program Provider, showing the term of approval for each Provider and the geographic scope of each Provider's program.

12. An approved Pre-licensing Education Program Provider that intends to cease operations, must provide the executive secretary with a written notice of cessation of its Pre-licensing Education Program at least 180 days in advance of the last date on which the Pre-licensing Education Program Provider will provide instruction in its Pre-licensing Education Program.
13. An approved Pre-licensing Education Program Provider shall maintain a place of business in the state of Colorado.
14. An approved Pre-licensing Education Program Provider shall maintain the following records at its Colorado place of business for a period of at least three (3) years from the date of the instruction of any participant: 1) the specific curriculum administered; 2) the specific handouts or other ancillary teaching materials provided or available to the participant; 3) the specific validation test or tests used; 4) the registration data for each participant, showing the participant's name, business association, date of participation, and means by which the participant was identified; 5) the specific validation test result(s) for the given participant; 6) the name of the instructor or other program authority who administered the program to the participant; and, 7) a copy of the completion certificate provided to the participant.
15. The executive secretary shall have the authority as a matter of routine compliance investigation, or upon the receipt of a specific complaint, to perform an investigation of the activities of a Pre-licensing Education Program Provider.
16. The executive secretary shall have the authority to obtain copies at no cost to the State of all materials utilized in or related to a Pre-licensing Education Program, including, but not limited to, the records of a Pre-licensing Education Program Provider respective to any or all persons who have participated in the Provider's program.
17. Procedures for the suspension or revocation of the approval of a Pre-licensing Education Program Provider shall be in accordance with sections 24-4-104 and 24-4-105, C.R.S.

REGULATION 12-6-115(7)(f)(I)

The Pre-Licensing Education Program shall include in its content, federal and Colorado state laws and federal and Colorado state regulations governing motor vehicle dealers. The education curriculum shall contain without limitation titles 4, 5, 6, 12, 18, 39, and 42 of the Colorado Revised Statutes applicable to motor vehicle dealers and motor vehicle sales and Federal Laws and Rules applicable to motor vehicle dealers and motor vehicle sales.

REGULATION 12-6-115(7)(f)(II)

1. An application from a prospective Pre-licensing Education Program Provider or a renewal application of a prior-approved Pre-licensing Education Program Provider must contain each of the following items:
 - a. Identifying information, to include the applicant's full legal name, the mailing address of its Colorado place of business, telephone number(s), email address(es), if any, and website addresses, if any. Addresses in addition to that of the Colorado place of business may also be provided, although communications will go to the Colorado place of business only.
 - b. Contact information, to include the name and title of any individual(s) who have authority to speak on behalf of the applicant.
 - c. A Pre-licensing Education Program Proposal for the delivery of the required education. The Proposal must include each of the following items, but may include additional items:

- 1) the manner of completing the eight (8) required hours of classroom instruction; 2) a detailed outline of curriculum (or full course materials, if available); 3) the full legal names and dates of birth of all instructors, teachers, and curriculum preparers, and their respective educational credentials (faculty additions and changes may later be made, subject to approval by the executive secretary); 4) routine educational materials, if any, which will be made available to program participants as part of the pre-licensing education program either prior to, during, or subsequent to the classroom attendance time; 5) optional educational materials, if any, which will be made available to program participants as supplements, enhancements, or enrichments in addition to routine educational materials; 6) the testing protocols and baselines of achievement that will be used to ensure that a program participant has learned what the program is required by law to teach; and, 7) the methods that the Pre-licensing Education Program Provider will consistently use a) to establish the identity of each participant in the Pre-licensing Education Program and b) to verify that any test or examination validating achievement in the Pre-licensing Education Program is taken by the individual participant whose identity had been established and not by another person.
2. The provider of a Pre-licensing Education Program must have a minimum of three (3) years experience in the regulation and enforcement of state and federal laws governing motor vehicle dealers and motor vehicle sales, or have three (3) years experience as an instructor working for an approved Pre-licensing Education Program provider.
3. The executive secretary shall require additional information from any applicant, in the event that the application is deficient with regard to any of the noted materials, or in the event that more information is needed to reach a decision on the application.

REGULATION 12-6-115(7)(f)(III)

1. A Pre-licensing Education Program Provider must maintain an educational site, or sites, appropriate to classroom instruction.
2. A Pre-licensing Education Program Provider must ensure the integrity of its educational materials and the instructional records of its participants, each being subject to inspection by the executive secretary.
3. The executive secretary will evaluate each prospective Pre-licensing Education Program Provider and each prior-approved Pre-licensing Education Program Provider reapplying for program approval with regard to the above criteria.

REGULATION 12-6-115(7)(f)(IV)

1. The methods of instruction may vary according to the approved Pre-licensing Education Program approved for any given Pre-licensing Education Program Provider, and may include within the eight-hour classroom instruction limitation: 1) traditional or non-traditional classroom instruction geared to adult learners, with testing validation; and, 2) CD or DVD instruction, with provisions for testing validation.
2. The methods of instruction actually used must match those that were approved through the application process.

REGULATION 12-6-115(7)(g)

An approved Pre-licensing Education Program Provider shall issue a Program-completion Certificate to each person who successfully completes an approved Pre-licensing Education Program. The Certificate shall be on a form approved by the Executive Secretary and shall be issued within ten (10) days of successful completion of the Pre-licensing Education Program.

REGULATION 12-6-115(7)(h)

An approved Pre-licensing Education Program Provider shall submit to the executive secretary a copy of the Program-completion Certificate for each person, who has successfully completed the approved Pre-licensing Education Program within the approved program standards, within ten (10) days of the completion of the approved program. The copy of the Program-completion Certificate may be sent by mail, by fax, or by email.

REGULATION 12-6-117

1. "Adequate sanitary facilities " means a permanent sewer hookup, cesspool or septic tank with leaching field, or portable chemical toilet.
2. A dealer's license shall not be issued to a person located at a principal place of business or other additional locations unless such place of business or additional locations are owned or leased by and actually occupied by the applicant. A motor vehicle dealer's license shall be suspended or revoked if the dealer's principal place of business or other additional locations are not owned or leased by and not actually occupied by the licensee.

REGULATION 12-6-118(l)(b) [Recodified as 1 CCR 210-2]

REGULATION 12-6-118(3)(b)

"Material misstatement" means any material false or misleading statement, omission, or misrepresentation by the applicant or a partner, officer, director or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, regarding personal identification information, employment history, personal or business entity financial information, prior occupational licensing history, whether regarding a license issued by the Board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, and deferred judgments, civil judgments, assurances of discontinuance, consent order/decrees, and/or stipulation arising from the operation of a business in this state or any other engaged in the sale, lease, or distribution of motor vehicles. This Regulation does not apply to shareholders of corporations that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended.

REGULATION 12-6-118(3)(d)

Dealers, wholesalers, wholesale auction dealers, officers, directors or stockholders of corporations owning five per-cent or more, licensed as such, who are convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to Article 3, 4, or 5 of Title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, shall provide to the board written notice of such conviction within thirty days after receiving such conviction. The licensee shall provide complete information including copies of such conviction and pre-sentence reports within thirty days of the conviction.

REGULATION 12-6-118(3)(i)

A. DEFINITIONS FOR PURPOSES OF THIS REGULATION

1. "Contract" means any written agreement, such as a purchase agreement, buyer order or invoice, between a Dealer and a Buyer for the sale of a motor vehicle, excluding the Retail Installment Sales Contract ("RISC").
2. "Dealer" means a motor vehicle dealer, used motor vehicle dealer, wholesaler, wholesale motor vehicle auction dealer, motor vehicle auctioneer, or a representative of the dealership.
3. "Seller" means Dealer.
4. "Buyer" means a retail consumer or a Dealer.
5. "Material Particulars" means those details concerning a vehicle for sale that are essential or necessary for a reasonable prospective Buyer to know prior to making the decision to buy or not to buy a vehicle.

B. DISCLOSURE PROCESS

Prior to the signing of the Contract, the Seller shall produce a written document disclosing all known Material Particulars. Both the Seller and Buyer must sign the document. The document is deemed to be part of the Contract. A signed copy of the Contract and the disclosure document shall be provided to the Buyer at the time of sale. The Seller shall retain a copy of the Contract and the disclosure document.

C. "AS IS" STATEMENT

A statement by the Seller to the Buyer that a vehicle is sold "as-is" does not relieve the Seller of the disclosure obligations imposed by this regulation, nor does it relieve the Seller of any other disclosure obligations otherwise required by state or federal law. An "as-is" statement solely disclaims implied warranties under provisions of the "Colorado Uniform Commercial Code," Title 4, C.R.S.

D. NON-EXCLUSIVE LIST OF "MATERIAL PARTICULARS"

Material Particulars include but are not limited to any of the following:

1. The motor vehicle is a "Salvage vehicle" as that term is defined in the Colorado "Certificate of Title Act," part 1 of article 6 of title 42, C.R.S.
2. The motor vehicle has sustained damage, whether repaired or not repaired, of the following types:
 - a. Frame or unibody damage of any grade or type; or
 - b. Flood, fire or hail damage; or
 - c. Accident or collision damage.
3. The motor vehicle has been modified in a way that impacts warranty coverage.
4. The motor vehicle had been declared a "total loss" by an insurance company.

5. The motor vehicle had been stolen.
6. The motor vehicle had been used as a police vehicle, vehicle for hire, rental vehicle, or a loaner or courtesy vehicle, if such use is clearly ascertainable from a title brand, from information obtained from a prior owner, from a Vehicle Identification Number (VIN), from a State-issued Identification Number, or from any other source.
7. The motor vehicle had been put to a use or had been altered in such a way that a reasonable person would consider unusual or extraordinary, such as use as a racing vehicle.

E. MATTERS GENERALLY NOT CONSIDERED "MATERIAL PARTICULARS"

This list is not intended to be all-inclusive. Material Particulars do not generally include the items on the following list:

1. Normal wear and tear.
2. Completed or prior mechanical repair.
3. General maintenance.
4. Repair or replacement of tires, wheels, glass, handlebars, moldings, radios, in-dash audio equipment, or the like, provided that the repair or replacement was completed in a manner reasonably comparable to manufacturer's specifications and provided that any repaired or replaced item is functioning at the time of sale in the manner that a reasonable person would expect.
5. Touch-up paint for minor scratches, dents, or dings.
6. Completed recall repair, provided the repair was done by a dealer authorized by the manufacturer to perform such repairs.

ADVERTISING

The statutory basis for this regulation is 12-6-118(3)(k), C.R.S.

REGULATION 12-6-118(3)(k)

Advertising shall be construed to be misleading or inaccurate in the following particulars:

Rule 1. Advertising a motor vehicle which is not in operable condition unless specifically disclosed.

Rule 2. Advertising which would imply the dealer is going out of business when such is not the case.

Rule 3. Advertising a specific motor vehicle for sale or lease with price or terms quoted, without fully identifying the vehicle as to year, make, model and dealer stock number. Such vehicle shall be willfully shown and sold at the advertised price and/or terms while such vehicle remains unsold or unleased, for a period of five days following the last date the ad was published, unless the ad states that the advertised price and terms are good only for a specific time and such time has elapsed. If a specific number of motor vehicles is advertised, such vehicles must have been invoiced to the dealer.

Rule 4. Using a picture or photograph of a vehicle in advertising when the picture or photograph is not the same make, year and equipment actually being offered for the price or terms advertised.

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- Rule 5. Advertising in such a manner which utilizes an asterisk or other reference symbols to contradict or materially change the meaning of any advertising statements.
- Rule 6. A used vehicle shall not be advertised in any manner that creates the impression that it is new.
- Rule 7. Advertising motor vehicles which are known by the dealer to be salvage, rebuilt from salvage, or flood vehicles, which are not so identified in the advertisement.
- Rule 8. Advertising in any manner to imply that a purchaser will be receiving benefits of any existing loan on a vehicle when no such benefit exists.
- Rule 9. Advertising or making statements that are not true or that cannot or will not be honored. Advertising which creates the false impression that the purchaser will determine the terms, price or conditions of a sale, such as "write your own deal," "name your own price," "no reasonable offer refused," and "we will not be undersold." Advertising any item as "free" which is associated with or conditioned upon the negotiated sale of a motor vehicle.
- Rule 10. Advertising sales prices for used motor vehicles which claim or imply a specific savings or discount without clearly and accurately documenting the basis for the savings or discount.
- Rule 11. Advertising any reference to "dealer cost" or "invoice" price. Advertising the word "wholesale" in connection with the retail offering of motor vehicles.
- Rule 12. Advertising a specific trade-in amount or range of amounts without, in fact, offering such a trade-in amount and, failing to disclose or advertise the M.S.R.P., sale price, or capitalized cost of the vehicle from which the trade-in will be deducted.
- Rule 13. Advertising the price of a vehicle without including all costs to the purchaser at the time of delivery, except sales tax, finance charges, cost of emissions test, other governmental fees or taxes, and transportation costs, incurred after sale, to deliver the vehicle to the purchaser at the purchaser's request.
- Rule 14. Advertising any specific discount or rebate on new motor vehicles without the manufacturer's suggested retail price conspicuously stated in the ad. When advertising rebates, incentives, or other offers, a dealer shall not combine such offers or give the impression that such offers are obtainable, when in fact they are not.
- Rule 15. Advertising any qualifying statement or disclosure which is not clear, conspicuous, and readable, and which is not adjacent to the offer or terms it qualifies, and in less than eight-point type.
- Rule 16. Advertising any contest that offers to prospective participants the opportunity to receive or compete for gifts or prizes without such advertisement containing the words "no purchase or payment of any kind is necessary to enter or win this contest" in bold-faced type and at least ten-point type.
- Rule 17. If any advertisement relates to a lease, the advertisement shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle.
- Rule 18. Statements, such as "Everybody Financed," "No Credit Rejected," "We Finance Anyone," and other statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit, are prohibited, unless such statements are true.
- Rule 19. Bait advertising, as defined in § 18-5-303, C.R.S., is not allowed.

REGULATION 12-6-118(3)(m)

All motor vehicle dealers and all used motor vehicle dealers must be open for business at least three (3) days per week for a continuous period of time not less than four (4) hours per day between the hours of 8 a.m. and 9 p.m.

Any dealership open less than forty (40) hours a week must post a clear and legible sign on its place of business indicating the days and hours that it is open for business. In addition such dealerships shall notify the Board in writing of any subsequent change in such periods of time.

Any dealership which will not be open for business for a period of at least two (2) weeks must post a clear and legible sign on its place of business indicating this fact as well as notifying the Board in writing of such fact.

A dealer's principal place of business shall be made available to inspection by the Board or its agents and employees at any reasonable time even if such time is outside the usual business hours posted by the dealer.

REGULATION 12-6-118(3)(v)

A dealer shall give notice of rejection of financing to the prospective buyer within ten (10) calendar days from the date of the purchase order or agreement on a finance or consignment sale.

REGULATION 12-6-118(5)(b)

"Material misstatement" in an application for a salesperson license means any relevant false or misleading statement, omission, or misrepresentation regarding personal identification information, employment history, prior occupational licensing history, whether regarding a license issued by the board or any other state licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, plea of nolo contendere or a plea in a deferred judgment and sentence.

REGULATION 12-6-118(5)(g) REISSUE OF SALESPERSON LICENSES

1. Salespersons who change employment during their license year shall notify the Auto Industry Division, on the form prescribed by the Board, of the identity of the new employer prior to commencing employment at the new dealership.
2. Upon the submission of the notification, acknowledged by the new employing dealer, the salesperson may begin working as a salesperson at the new employing dealership.
3. After receipt of notification, the Auto Industry Division shall issue a new license to the salesperson for the remainder of the license term.
4. Any salesperson who fails to provide timely notification may be subject to disciplinary action.

REGULATION 12-6-118(5)(j)

A salesperson who is convicted of or pled nolo contendere or a plea in a deferred judgment and sentenced to any felony or any crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, must give the board written notice of such conviction within thirty days after such conviction. The licensee shall provide complete information including copies of the conviction and pre-sentence reports within thirty days of the conviction.

REGULATION 12-6-118(6)

- (a) The Board, in determining whether a licensee or license applicant has demonstrated unfitness of licensing character or record, will consider whether the licensee or license applicant or the licensee's or license applicant's partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license: 1) has had a license fined, denied, suspended or revoked; 2) has been determined to have violated the licensing examination procedures of Regulation 12-6-104 (3) (j); or, 3) has had any complaints, civil judgments, injunctions, consent orders/decrees, or stipulations, arising from the operation of a business in this state or any other state, engaged in the sale, lease or distribution of motor vehicles, and, if so, the nature, severity, and extent of these legal matters. This Regulation does not apply to shareholders of corporations that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended.
- (b) The Board, in determining whether a licensee or applicant has demonstrated unfitness of criminal character or record, will consider the nature and date of the convictions; parole or probation status; including whether the licensee or applicant has maintained satisfactory compliance; and/or restitution. A pattern of convictions which, individually may not constitute grounds for denial or disciplinary action, may, taken together, constitute unfitness.
- (c) The Board, in determining whether a licensee or applicant has demonstrated unfitness of financial character or record, will consider net worth, liquid assets including cash, lines of credit, marketable securities, credit reports, unpaid judgments and/or tax liens, delinquent debts, and bankruptcy status. Applications for a motor vehicle dealer or used motor vehicle license will be closely evaluated based on the factors herein and the applicant's concept of operation for the business to assess the potential for harm to retail customers.
 - (l) Failure to timely pay any fine imposed by the Board, or the submission of a draft or check for the payment of any fee required by the Board which is dishonored shall be deemed to demonstrate unfitness of financial character or record.

REGULATION 12-6-120(2)

The Board will entertain any petition for declaratory orders to terminate a controversy or to remove the uncertainty as to the applicability to any person of any statutory provisions, or of any rule or order of the Board concerned with this Article.

Editor's Notes

Regulations 12-6-105(1)(c), 12-6-101(1)(d), 12-6-105(1)(e), 12-6-105(1)(f), 12-6-114, 12-6-115(5), 12-6-118(l)(b) were recodified as 1 CCR 210-2 on 08/20/2014.

History

Regulations 12-6-104(3)(k), 12-6-104(4), 12-6-118(3)(d), 12-6-118(5)(b), 12-6-118(5)(j) eff. 01/01/2008.

Regulations 12-6-115(7)(d) through 12-6-115(7)(h) emer. rule eff. 08/05/2008; expired 10/10/2008.

Regulations 12-6-115(7)(d) through 12-6-115(7)(h) emer. rule eff. 10/23/2008.

Regulations 12-6-115(7)(d) through 12-6-115(7)(h) eff. 12/31/2008.

Regulations 12-6-104(3)(j), 12-6-108(1)(c), 12-6-108.5(1), 12-6-113, 12-6-118(6) eff. 08/30/2010.

Regulations 12-6-102(1.5), 12-6-118(3)(k) eff. 12/30/2014.

Regulation 12-6-104(3)(k) eff. 08/14/2015.

Regulation 12-6-118(3)(i) eff. 04/15/2016.

Regulations 12-6-102(16), 12-6-104(3)(g), 12-6-104(3)(i), 12-6-105(1)(b), 12-6-115(6) eff. 01/30/2018.