

PHIL WEISER
Attorney General

NATALIE HANLON LEH
Chief Deputy Attorney General

SHANNON STEVENSON
Solicitor General

TANJA WHEELER
Associate Chief Deputy Attorney
General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 8th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Revenue and Utilities Section

January 19, 2024

Ms. Deanna Maiolo
Administrative Rules Program Manager
Colorado Secretary of State
Licensing and Enforcement Division, Administrative Rules Program
1700 Broadway, Suite 200
Denver, Colorado 80290

RE: Correction to Colorado Motor Vehicle Dealer Board Regulations
1 CCR 205-2 (Powersports) – Regulation 44-20-420(6)(c)
SOS Tracking Number 2023-00817

Dear Ms. Maiolo:

Pursuant to section 24-4-103(11)(d)(II), C.R.S., the following correction to the above referenced Regulation is not a substantive change but is a correction to a proofreading error. A previous correction, effective January 27, 2023, to Regulation 44-20-420(6)(c) inadvertently corrected a prior version of the Regulation. This correction seeks to reinstate an amendment that was inadvertently deleted from the Regulation when an unrelated spelling error was corrected.

In August 2022, the Motor Vehicle Dealer Board (the “Board”) amended Regulation 44-20-420(6)(c) to include child support obligation status as a factor to consider when determining if an applicant or licensee demonstrates unfitness of financial character or record. See Exhibit 1, Tracking Number 2022-00138 (redlined and clean versions of Regulation). Specifically, Regulation 44-20-420(6)(c) was amended in two ways: (1) the first paragraph of the Regulation was revised to include “and child support obligation status;” and, (2) subparagraphs (II) and (III) were added. See Exhibit 1.

On January 27, 2023, the Board filed a rule correction to Regulation 44-20-420(6)(c) to correct one word. See Exhibit 2, Tracking Number 2023-0003, Adopted Rules (changed word in **bold**). Specifically, the Regulation was corrected to replace the word “retain” with “retail.” *See id.* The January 27, 2023 rule correction (Tracking Number 2023-0003), however, used the incorrect (prior) version of Regulation 44-20-420(6)(c). Specifically, the January 27, 2023, Rule Correction corrected the prior and older version of Regulation 44-20-420(6)(c) that did not have the amendments added from Tracking Number 2022-00138. *Cf.* Exhibit 1 & Exhibit

2. Thus, the January 2023 Rule Correction inadvertently altered a prior version of the Regulation. *See id.*

This correction is necessary is to reinstate the prior promulgated amendments to Regulation 44-20-420(6)(c) (Tracking Number 2022-00138), while retaining the prior correction to the Regulation (Tracking Number 2023-0003). Attached is a copy of the proposed corrected Regulation 44-20-420(6)(c). See Exhibit 3, Tracking Number 2023-00817.

Thank you for your assistance in correcting this error. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

FOR THE ATTORNEY GENERAL

/s/ Sarah Killeen

Sarah Killeen
Assistant Attorney General
Revenue & Utilities Section
1300 Broadway, 8th Floor
Denver, Colorado 80203
Telephone: 720-508-6334
Email: sarah.killeen@coag.gov

cc: Ms. Chris Rouze
Mr. John Opeka
Mr. Robert Dodd

DEPARTMENT OF REVENUE

Motor Vehicle Dealer Board

DEALING IN POWERSPORTS VEHICLES

1 CCR 205-2

[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 44-20-404(1)(a).

REGULATION 44-20-420(6)(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, ~~and child support obligation status~~. Applications for a powersports vehicle dealer 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 retain customers.

(I) 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.

(II) Any license for which an application has been made pursuant to this part 4 may be denied if, [at the time of the application], the Board received notice that the Applicant failed to comply with a court or administrative order for current child support, retroactive child support or child support arrears. If the Board receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied.

(III) Any license for which an application for renewal has been made pursuant to this part 4 may be denied on a conditional basis if, at the time of the renewal application, the Board received notice that the Applicant failed to comply with a court or administrative order for current child support, retroactive child support or child support arrearages pursuant to sections 24-35-116 and 26-13-126, C.R.S.

~~REGULATION 44-20-420(6)(d)~~

~~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.~~

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(I) 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.

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(III) Any license for which an application for renewal has been made pursuant to this part 4 may be denied on a conditional basis if, at the time of the renewal application, the Board received notice that the Applicant failed to comply with a court or administrative order for current child support, retroactive child support or child support arrearages pursuant to sections 24-35-116 and 26-13-126, C.R.S.

- (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 powersports vehicle dealer or used powersports 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.
- (I) 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.
- (II) Any license for which an application has been made pursuant to this part 4 may be denied if, at the time of the application, the Board received notice that the Applicant failed to comply with a court or administrative order for current child support, retroactive child support or child support arrears. If the Board receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied.

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(I) 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.

(II) Any license for which an application has been made pursuant to this part 4 may be denied if, [at the time of the application], the Board received notice that the Applicant failed to comply with a court or administrative order for current child support, retroactive child support or child support arrears. If the Board receives notice of the Applicant's noncompliance pursuant to sections 24-35-116 and 26-13-126, C.R.S., the application may be denied.

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