

## Motor Vehicle Dealers' And Salespersons' LICENSING BOARD RULES

### Ohio Administrative Code Chapter 4501:1-3

#### 4501:1-3-03

##### Sign required to identify place of business

- (A) No applicant shall be issued a license unless his application shall show that the business for which the license is sought is equipped with a suitable sign, properly maintained and prominently displayed, and permanent, identifying the ownership of said business in the same name in which the application is filed. Sign letters identifying the business shall be no less than six inches high unless otherwise approved by the registrar.
- (B) No motor vehicle dealer or auction owner or its agent or representative shall alter the physical conditions of the established place of business so that it is not in compliance with the requirements of Chapter 4517. of the Revised Code.

#### 4501:1-3-04

##### Dealer required to maintain records

- (A) A motor vehicle dealer, a motor vehicle auction owner, a manufactured home broker and a motor vehicle distributor shall maintain the following records of all motor vehicles purchased, leased and sold:
- (1) Name and address of the previous owner;
  - (2) Serial number (vehicle identification number);
  - (3) Title number, county and state;
  - (4) Year and make of said vehicle;
  - (5) A purchase agreement for each vehicle sold, which shall include a description of the vehicle, the name and address of the purchaser, the sales price, the odometer reading, and may include the dealer's or broker's permit number;
  - (6) Lease contracts;
  - (7) Odometer disclosure statement for each vehicle, except that a manufactured home broker is not required to generate or keep this record;
  - (8) A record of temporary tags sold on each vehicle except that a manufactured home broker is not required to generate or keep this record.
- (B) Records must be maintained and easily accessible for a period of three years by those holding a license granted under Chapter 4517. of the Revised Code, and by any person who held a license and has since gone out of business.
- (C) The business records shall be open for reasonable inspection by the registrar or his authorized agent.

#### 4501:1-3-05

##### Dealer selling as salesperson for another dealer prohibited

- (A) No person, firm, or corporation, to which a dealer's license has been currently issued, shall be issued a salesperson's license to sell motor vehicles for another licensed dealer.

#### 4501:1-3-07

##### Law enforcement report required with application

- (A) Each applicant for a dealer's, distributor's or auction owner's license shall, if the applicant has not held a dealer's, distributor's or auction owner's license within twelve months prior to the application, submit a report from local law enforcement agencies with the application to the registrar of motor vehicles. The principal officer of a corporation and the manager or operator of the corporation, and all trustees of a business trust shall furnish a complete report from local law enforcement agencies, checked on a state-wide basis through the bureau of criminal identification and investigation, to the registrar of motor vehicles with the application for the license. In the case of a partnership, or limited liability company, each partner or member shall submit a report from local law enforcement agencies checked on a state-wide basis through the bureau of criminal identification and investigation to the registrar of motor vehicles.
- (B) Each applicant for a salesperson's license, if he has not held a salesperson's license within twelve months prior to the application, shall submit a report from local law enforcement agencies checked on a state-wide basis through the bureau of criminal identification and investigation with his application for a salesperson's license to the registrar of motor vehicles. The report from the local law enforcement agency shall indicate all of the offenses of which the applicant has been convicted.

#### 4501:1-3-08

##### Place of business required for used motor vehicle dealers

- (A) A used motor vehicle dealer shall have an established place of business which shall include a lot of no less than three thousand five hundred square feet, not including driveways with adequate ground cover of a hard surface to prevent the collection of dust, mud, water or other unsightly conditions and shall be separated from any other business or residence with a permanent physical barrier. There shall be a permanent, usable structure on the premises, including an easily accessible office of no less than one hundred eighty square feet of usable office area which shall include, at minimum, heating that is sufficient and reasonable for a retail office environment, electric lighting, a telephone in service used and identified exclusively for the dealership's business, a desk, three chairs and a filing cabinet, all of which shall be kept in a neat and orderly fashion. The structure shall be occupied by the dealership and staffed by a person who is licensed and regulated under Chapter 4517. of the Revised Code and could reasonably assist any retail customer with or without an appointment. The dealership shall be easily accessible from a public roadway and shall be identifiable as a motor vehicle dealership to the public and open for business. The business hours shall be prominently posted on the premises.

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- (B) No motor vehicle dealer or auction owner or its agent or representative shall alter the physical conditions of the established place of business so that it is not in compliance with the requirements of Chapter 4517. of the Revised Code.
  - (C) The requirements for an established place of business for used motor vehicle dealership shall be construed to the end that any customer may, without an appointment, visit the establishment and view its motor vehicle inventory.
  - (D) A facility shall be considered an established place of business for used motor vehicle dealership when the primary business consists of displaying and offering motor vehicles for sale, lease, or rent so long as it meets all of the requirements of this rule with regard to a used motor vehicle dealership.
  - (E) A permanent physical barrier is a metal, brick, stone, concrete, wood, heavy plastic, or heavy support cable that is of sufficient composition that it will not significantly deteriorate over time, and cannot be moved or removed. It shall be of sufficient strength and durability to stop, or at minimum, inhibit normal vehicular and pedestrian traffic. It shall clearly delineate a separation between a residence or an unrelated business and the beginning of the dealership's established place of business. If such separation is required, it shall be properly maintained during the entire period for which a used motor vehicle dealership license is held.
- (2) The expanded site shall be used exclusively for the display of motor vehicles and no other business or residence shall be located or conducted on this site.
  - (3) There shall be a sign at the expanded site which shall be in accordance with rule 4501:1-3-03 of the Administrative Code.
- (B) In addition to the above conditions, the motor vehicle dealer shall conduct all transactions relating to the lease or sale of motor vehicles at the principal place of business. A motor vehicle dealer who has more than one place of business in a county, must operate the expanded display site in conjunction with the principally established place of business.
  - (C) Any motor vehicle dealer seeking to establish an expanded display site shall first request approval from the registrar of motor vehicles and request an inspection to determine if the site meets the criteria set forth above. If the registrar determines that the site meets the requirements of this rule, the motor vehicle dealer shall not be required to obtain a separate license for the expanded display site nor will the motor vehicle dealer be required to maintain a display or repair facility under roof on the expanded site. If the registrar determines that the expanded display site does not continue to meet the above criteria annually thereafter, the dealer's annual license renewal shall be denied pursuant to Section 4517.12 of the Revised Code. An appeal of such a denial may be made to the motor vehicle dealers board in accordance with Rule 4501:1-3-25 of the Administrative Code. If the motor vehicle dealers board, upon its own investigation, determines that the site does not meet or is not in accordance with the requirements set forth above, the board shall suspend or revoke the dealer's license pursuant to Section 4517.33 of the Revised Code.

## 4501:1-3-09

### Registrar shall deny license

- (A) The registrar shall deny the application of any person for a motor vehicle dealer's license, manufactured home broker's license, distributor's license or auction owner's license, or for the renewal of a motor vehicle dealer's license, manufactured home broker's license, distributor's license or auction owner's license if the registrar finds that the applicant has been convicted of a felony, except as provided below.
- (B) Paragraph (A) of this rule shall not apply if the conviction occurred prior to December 8, 1986, and was not related to the selling, taxing, licensing, or regulation of sales of motor vehicles.

## 4501:1-3-10

### Requirements for expanded display site for motor vehicle dealer, motor vehicle leasing dealer, or motor vehicle auction owner

- (A) A motor vehicle dealer, motor vehicle leasing dealer, or motor vehicle auction owner, pursuant to section 4517.01 of the Revised Code may expand the display area of the dealership location licensed under Chapter 4517. of the Revised Code. The expanded area is an extension of the principally established place of business pursuant to section 4517.03 of the Revised Code which is located adjacent to or within two hundred feet of the property line of the principally established place of business and which complies with the following:

(1) The expanded site shall be at least two thousand square feet not including driveway with adequate ground cover of hard surface so as to prevent the collection of dust, mud, water, or other unsightly conditions.

## 4501:1-3-11

### Dealer required to maintain net worth

No dealer shall be issued a motor vehicle dealer's license or permitted to operate under such license unless the dealer has a net worth in the sum of ten thousand dollars.

## 4501:1-3-13

### Method of instituting complaints

- (A) The board may, upon its own motion, investigate any license holder for alleged violations of law or of the rules of this board. If such investigation discloses any such violations, such license holder shall be informed that reasonable grounds for suspension or revocation of the license exist.
- (B) The board shall, upon verified written complaint of any person filed with the secretary or acting secretary of the board, investigate as to the matters complained of, and if such investigation develops any apparent violation of the laws or of the rules of this board, such license holder shall be informed that reasonable grounds for suspension or revocation of the license exist.

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## **4501:1-3-14**

### **Notice of hearing**

When in the opinion of the board, reasonable grounds for issuance of a citation exist, the secretary or acting secretary of the board shall send a "Notice of Opportunity for Hearing" by certified mail, return receipt requested, to the license holder cited at the address specified in the application for license. Such notice shall specify the alleged violation of the Revised Code or the rules of the board, and shall apprise the licensee of his/her right to request an adjudicatory hearing on the matter.

## **4501:1-3-15**

### **Date and Place of hearing**

If requested by the license holder in writing, within thirty days after mailing of the "Notice of Opportunity for Hearing," the board must set the date, time and place of hearing, and immediately notify the license holder. The date for such hearing shall be within seven to fifteen days after the party has requested a hearing. If the license holder fails to respond to "Notice of Opportunity for Hearing" within thirty days, the board may consider the charges as proven and may, in its discretion and without a hearing, suspend or revoke the license.

## **4501:1-3-16**

### **Continuances**

- (A) Any hearing may be postponed or continued by the board on its own motion, or within the discretion of the board at the request of the license holder for such period of time and upon such terms as the board may prescribe.
- (B) The license holder requesting continuances shall submit to the board, at least five days prior to the date set for hearing, a written request, stating the reasons for the desired continuance. Verified statements setting out the grounds for the continuance shall be filed with the request.

## **4501:1-3-19**

### **Stenographer's record**

At any hearing before the board, the record of which may be the basis of an appeal to a court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the board.

## **4501:1-3-20**

### **Hearing procedure**

In all hearings before the board, the procedure shall be as follows:

- (A) The attorney general concisely may state his case and briefly may state his evidence to sustain it.
- (B) The license holder, or his attorney, may then briefly state his case, and briefly may state his evidence in support of it.
- (C) The attorney general first must produce his evidence and the license holder, or his attorney must then produce his evidence.
- (D) The attorney general may offer evidence in rebuttal.
- (E) The board may in its discretion hear arguments.
- (F) The board may in its discretion request or permit the filing of briefs.

## **4501:1-3-21**

### **Evidence**

- (A) In all hearings before the board, the introduction of evidence shall be governed in general by the rules of evidence.
- (B) The board may call the license holder to testify under oath as upon cross-examination. The license holder may call the acting secretary of the board to testify under oath as upon cross-examination.

## **4501:1-3-22**

### **Briefs**

Shall be clearly typewritten or photocopied. The party filing the brief shall furnish the opposite party or his attorney with one copy and file with the secretary or acting secretary of the board four copies.

## **4501:1-3-23**

### **Decision of the Board**

- (A) After submission of the case to the board, the board may retire and deliberate immediately or take the case under advisement.
- (B) The decision of the board shall be written and a copy of such a decision shall be mailed to the license holder by certified mail, return receipt requested, and a copy mailed to the attorney for the license holder, if any. A copy also shall be forwarded to the Attorney General.

## **4501:1-3-24**

### **Rehearings**

- (A) Should the license holder desire a rehearing before the board, such license holder shall file his application for rehearing in writing with the secretary or acting secretary of the board, within fifteen days after receipt of the decision of the board and shall accompany the application with a verified statement setting out the grounds on which such rehearing is sought.
- (B) Grounds for rehearing shall be for the following causes only:
  - (1) For mistake, neglect or omission on the part of the board, or irregularity in obtaining a favorable decision or order on the part of the successful party.
  - (2) For fraud practiced by the successful party in obtaining a favorable order or decision.
  - (3) For unavoidable casualty or misfortune, preventing the license holder from prosecuting his case before the board.
  - (4) When a decision or order was obtained, in whole or a material part by false testimony on the part of the successful

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party, or any witness in his behalf, which ordinary prudence could not have anticipated or guarded against.

(5) Newly discovered evidence, material for the license holder applying for rehearing, which with reasonable diligence could not have been discovered and produced at the hearing and which is not merely corroborative of evidence produced or offered at the hearing, and the license holder in his application for rehearing shall state the nature of such evidence.

## 4501:1-3-25

### Appeals from registrar's order

- (A) When the registrar refuses to issue, renew, or transfer any license, he shall, by certified mail, return receipt requested, send to the applicant so refused, notice of such order at the address stated in the application and certify his findings and final order to the board. The notice to the applicant shall set forth the reasons for the registrar's action, refer to the statute or rule directly involved, and state that the applicant has a period of thirty days from the time of mailing of the notice, to file his appeal with the board.
- (B) Such appeal must be by petition, in writing, and verified under oath by the appellant. The petition in appeal must set forth the reason for such appeal and the reason why the order of the registrar is in error. The original and at least one copy shall be filed with the secretary or acting secretary of the board.
- (C) After receipt of such petition in appeal, the secretary or acting secretary of the board shall, by certified mail, return receipt requested, immediately send a notice of hearing to the appellant. The notice of hearing shall contain the date, time, and place of hearing of the appeal. The date set for such hearing shall be within seven to fifteen days after the party has requested a hearing unless otherwise agreed to by both the board and the party. The board may postpone or continue any adjudication hearing upon the motion of any party or upon its own motion.
- (D) The provisions of rules 4501:1-3-16, 4501:1-3-19, 4501:1-3-20, 4501:1-3-21, 4501:1-3-22, and 4501:1-3-23 of the Administrative Code [sic] shall apply to hearings on appeals from the registrar's order in the same manner as regular hearings before the board.

## 4501:1-3-26

### Docket

The secretary or acting secretary of the board shall keep a docket and enter into such docket all cases before the board. Said docket shall be open to public inspection.

## 4501:1-3-30

### Licensing of leasing employees

An employee of a motor vehicle leasing dealer other than a sole proprietor, president of a corporation, partner, trustee of a trust, member of a limited liability company, or an equivalent natural person affiliated with some other kind of legally constituted business organization shall be licensed as a motor vehicle salesperson under sections 4517.09, 4517.14 and 4517.20 of the Revised Code if the

employee engages in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle for personal, family or household use pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at periodic rate for a term of thirty days or more where title to the motor vehicle is in a person other than the user.

## 4501:1-3-31

### Exemption from notice of change

Motor vehicle dealers and manufactured home brokers shall be exempt from the provisions of division (A) of section 4517.23 of the Revised Code, requiring dealers to notify the registrar of changes in the status of personnel of owners, partners, officers and/or directors, if stock in the dealer or its parent company has been traded publicly and public records with state and federal agencies document such change.

## 4501:1-3-32

### Place of business required for motor vehicle leasing dealerships

- (A) A motor vehicle leasing dealer who makes motor vehicles available for personal, family, or household use by another in the manner described in the definition of "motor vehicle leasing dealer" contained in section 4517.01 of the Revised Code shall have an easily recognizable established place of business with an office that is used exclusively for leasing motor vehicles. A place of business shall be considered as used exclusively for leasing motor vehicles for personal, family, or household use even though a business operated as a new motor vehicle dealership, a used motor vehicle dealership, or a motor vehicle renting dealership, as defined in section 4549.01 of the Revised Code, is located at the place of business.
- (B) The office shall contain no less than one hundred eighty square feet of area and shall be kept neat and orderly at all times. At minimum, the office shall have a telephone in service at all times listed in and answered in the name of the motor vehicle dealer, a facsimile machine in service during normal business hours, a desk, filing cabinet, three chairs and heat and electric lighting that is sufficient and reasonable for an office environment. The office shall not be used as a storage or other utility area. The requirements of this paragraph shall not be in addition to those required of a new or used motor vehicle dealership.
- (C) The office shall be clearly identified, easily accessible and open to any person desiring to lease a motor vehicle for personal, family or household use. The name of the motor vehicle leasing dealership and the office hours shall be legible and shall be posted in a conspicuous place where the general public has access, at or near the entrance to the building, and at or near the entrance to the office, if the two places are not the same.
- (D) The office shall be staffed during the posted hours by a sole proprietor, partner, president of a corporation, member of a limited liability company, trustee of a business trust, an equivalent natural person affiliated with some other kind of legally constituted business organization, or a licensed salesperson.

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## 4501:1-3-33

### Place of business required for motor vehicle auction owner

- (A) A motor vehicle auction owner shall have an established place of business with an office area that is permanent in nature. The office shall have, at minimum, a telephone in service at all times used at the auction facility's offices, electric lighting, and heating that is sufficient and reasonable for an office environment. An established place of business that is used for auctioning motor vehicles shall also have at least one area under permanent roof that is large enough that motor vehicles may be moved through and where such motor vehicles may be offered at auction.
- (B) The established place of business for an auction owner's license shall be separated by a permanent physical barrier, as defined in rule 4501:1-3-08 of the Administrative Code, from any home or personal residence, motor vehicle dealership, salvage motor vehicle dealership, salvage motor vehicle auction, and salvage motor vehicle pool.
- (C) An established place of business that is used for auctioning motor vehicles shall be considered used exclusively for that purpose even though its facilities may be incidentally used for conducting a public auction of repossessed motor vehicles.
- (D) The office and auction area shall be clearly identified, easily accessible and open for business during business hours. It shall be open to the general public only when a public auction of repossessed motor vehicles is being conducted. The office and auction area shall be kept neat and orderly at all times, and shall not be used as a general storage area or other utility area.
- (E) The business hours shall be legible and posted in a conspicuous place near the entrance of the auction owner's licensed premises.
- (F) Every auction owner licensed under Chapter 4517. of the Revised Code shall notify the registrar of motor vehicles in writing within fifteen days of any change in status of: (1) name; (2) location; and (3) personnel of owner, partners, officers and directors.

# CSPA and Rules

## OHIO CONSUMER SALES PRACTICES ACT AND SUBSTANTIVE RULES

**The following sections are from the Ohio Consumer Sales Practices Act and Substantive Rules. All of the sections are not listed, only those which most frequently apply to consumer transactions with motor vehicle dealerships. For specific application, please consult the complete published statute or you dealership attorney.**

### Ohio Revised Code Chapter 1345 Ohio Consumer Sales Practices Act

#### 1345.01 Definitions.

As used in sections 1345.01 to 1345.13 of the Revised Code:

- (A) "Consumer transaction" means a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, franchise, or an intangible, to an individual for purposes that are primarily personal, family or household, or solicitation to supply any of these things. "Consumer transaction" does not include transactions between persons, defined in sections 4905.03 and 5725.01 of the Revised Code, and their customers; transactions between certified public accountants or public accountants and their clients; transactions between attorneys, physicians, or dentists and their clients or patients; and transactions between veterinarians and their patients that pertain to medical treatment but not ancillary services.
- (B) "Person" includes an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, or cooperative, or any other legal entity.

- (C) "Supplier" means a seller, lessor, assignor, franchisor, or other person engaged in the business of effecting or soliciting consumer transactions, whether or not the person deals directly with the consumer.
- (D) "Consumer" means a person who engages in a consumer transaction with a supplier.
- (E) "Knowledge" means actual awareness, but such actual awareness may be inferred where objective manifestations indicate that the individual involved acted with such awareness.
- (F) "Natural gas service" means the sale of natural gas, exclusive of any distribution or ancillary service.
- (G) "Public telecommunications service" means the transmission by electromagnetic or other means, other than by a telephone company as defined in section 4927.01 of the Revised Code, of signs, signals, writings, images, sounds, messages, or data originating in this state regardless of actual call routing. "Public telecommunications service" excludes a system, including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of such service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate telecommunications service; broadcast transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service.

#### 1345.02 Unfair or deceptive consumer sales practices prohibited.

- (A) No supplier shall commit an unfair or deceptive act or practice in connection with a consumer transaction. Such an unfair or deceptive act or practice by a supplier violates this section whether it occurs before, during, or after the transaction.