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PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 1. Motor Vehicle Commission

Chapter 1. General Requirements

§101. Definitions
[Formerly §707]

A. Definitions

Abbreviations—using shortened terms for words or initials for groups of words. Commonly understood abbreviations, such as “‘2 DR’,” “‘AM/FM’,” “‘APR’,” “‘WAC’,” “‘DEMO’,” “‘EXEC’,” “‘DOC FEE’,” may be used. Trade industry abbreviations which are not commonly understood, such as “‘FTB’,” “‘A/R’,” “‘TOP’,” “‘POF’,” “‘DOC’,” may not be used. This rule does not contain a list of all the abbreviations one may not use.

Advertisement—an oral, written, telecommunicated, graphic, or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, letter, flyer, price tag, window sticker, banners, billboards, handbills, or on radio, the Internet, or via on-line computer service, or on television or on-hold messaging, any medium.

Bait Advertisement—an alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain leads to persons interested in buying or leasing merchandise of the type advertised and to switch consumers from buying or leasing the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser.

Balloon Payment—any scheduled payment required by a consumer credit sale or consumer loan that is more than twice as large as the average of all prior scheduled payments except the down payment.

Commission—the Louisiana Motor Vehicle Commission.

Dealership Addendum—a form which is to be displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

- a. The addendum is to disclose:
 - i. that it is supplemental;
 - ii. any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore;

- iii. any additional charge to the selling price manufacturer’s suggested retail price (MSRP) such as additional dealership markup; and

- iv. the total dealer retail price.

b. The dealership addendum form shall not be deceptively similar in appearance to the manufacturer’s label, which is required to be affixed by every manufacturer to the windshield or side window of each new motor vehicle under the Automobile Information Disclosure Act.

Demonstrator—a new motor vehicle that is currently in the inventory of the automobile dealership and used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership. *Demonstrators* may be advertised for sale as such only by an authorized dealer in the same make of motor vehicle.

Disclaimer—those words or phrases used to provide a clear understanding of any advertised statement, but not used to contradict or change the meaning of the statement.

Disclosure—a clear and conspicuous statement made in such size, color, contrast, location, duration, and audibility that it is readily noticeable, readable and understandable. The disclosure may not contradict or be inconsistent with any other information with which it is presented. If the *disclosure* modifies, explains, or clarifies other information with which it is presented, or states “see dealership for details,” then it must be presented in proximity to the information it modifies, in a manner readily noticeable, readable, and understandable, and it must not be obscured in any manner.

- a. An audio *disclosure* must be delivered in a volume and cadence sufficient for a consumer to hear and comprehend it.

- b. A visual *disclosure* for television must appear on the screen for a duration sufficient for a consumer to read and comprehend it.

- c. In a print or internet advertisement or promotional material, including without limitation point of sale display or brochure materials directed to consumers, a disclosure must be in a type size and location sufficiently noticeable for a consumer to read and comprehend it, in a print that contrasts with the background against which it appears.

- d. For purposes of these rules, qualifying terms and phrases will be considered to be clearly, conspicuously and accurately set forth if they are:

- i. in bold print and type of such size that is capable of being read without unreasonable extra effort;
- ii. expressed in terms that are understandable to the buying public; and
- iii. in close proximity to the qualified representation and not separated or buried by asterisk in some other part of the advertisement.

Factory Executive/Official Vehicle—a new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor or their subsidiaries.

Internet—a system that connects computers or computer network.

Licensee—any person required to obtain a license from the commission.

Manufacturer's Certificate of Origin (MCO), a *Manufacturer's Statement of Origin (MSO)* or a *Certificate of Origin*—a transitional ownership document issued by a manufacturer to a specific vehicle, or if a multi-stage vehicle, to a specific component of the vehicle and includes a *manufacturer's statement of origin (MSO)*, a *certificate of origin* or similar term. An *MCO* is used to convey ownership from the manufacturer to a franchised dealer or distributor and from the franchised dealer or distributor to a purchaser.

Manufacturer's Label—the label required by the Automobile Information Disclosure Act, 15 U.S.C. 1231-1233, to be affixed by the manufacturer to the windshield or side window of each new automobile delivered to the dealer.

Program Vehicle—a used vehicle that is purchased at a manufacturer's closed auction or sold by or directly from the manufacturer or distributor which is current or previous year model, that has been previously tagged and/or titled, and returned to the manufacturer for disposal.

Rebate or Cash Back—a sum of money refunded to a purchaser for their benefit by the manufacturer or distributor after full payment has been rendered. The purchaser may choose to reduce the amount of the purchase price by the sum of money or the purchaser may opt for the money to be returned to himself or for his benefit subsequent to payment in full.

Vehicle—any motor vehicle or recreational product subject to regulation by the commission.

VIN—a series of Arabic numbers and Roman letters that are assigned to a vehicle for identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1545 (July 2010), LR 39:3071 (November 2013).

§103. Communication with Commission [Formerly §107]

EDITOR'S NOTE: The Louisiana Motor Vehicle Commission has moved its office location. All communications with the commission should be addressed to its office, 3017 Kingman Street, Metairie, LA 70006.

A. All communications with the commission should be addressed to its office, 3519 Twelfth Street, Metairie, LA 70002. All necessary forms may be obtained at such office.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1546 (July 2010).

§105. Powers and Duties of Executive Director [Formerly §109]

A. The executive director of the commission shall have charge of the office of the commission, the clerical help therein, the books and records of the commission, and the financial accounts of the commission, subject to the orders and instructions of the commission. He shall attend to such routine correspondence and other activities as may not require official action by the commission itself, and shall perform such other tasks as the commission may delegate to him. The executive director has the authority to issue all licenses upon receipt of applications that comply with the statutes and rules of the commission. He shall endeavor to obtain all necessary information and so handle and process the preliminary aspects of matters which are to come before the commission for official action that when placed before the commission the matter will be in shape for proper official action.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1546 (July 2010).

§107. Manufacturer Termination of Franchise Liquidation of New Vehicle Inventory; Warranty Work; Exception

A. If the termination, cancellation, or nonrenewal of a licensee's franchise by the manufacturer, distributor, or factory branch is the result of the termination, elimination, or cessation of a motor vehicle or recreational product line (a "vehicle"), whether by bankruptcy, closure of its business or otherwise (the "termination"), the license issued by the commission may remain in effect or be renewed at the discretion of the commission under the following circumstances.

1. The vehicle(s) was acquired in the ordinary course of business as a new vehicle by a person licensed to sell that vehicle.

2. The termination is not a result of the revocation by the commission of the licensee's license or the licensee's conviction of a crime.

3. The vehicle is held in the inventory of the licensee on the date of the termination.

4. The vehicle is sold by the licensee within six months of the date the termination unless this period is extended upon application by the licensee in the commission's discretion.

5. The commission's discretion to allow the licensee to continue in effect does not entitle a licensee whose franchise agreement has been terminated, canceled, or rejected to continue to perform warranty service repairs or continue to be eligible to offer or receive consumer or dealer incentives offered by the manufacturer, distributor, or factory branch.

B. At the termination of the franchise the license issued by the commission may remain in effect or be renewed at the discretion of the executive director as a service center to perform warranty repairs on the vehicle under the following circumstances.

1. The dealer shall remain a dealer licensed by the commission.

2. The manufacturer, distributor or factory branch must enter into an agreement authorizing the dealer to perform warranty repairs on the terminated vehicle which agreement will comply with all provisions of R.S. 32:1251 et seq. and the rules and regulations adopted pursuant to this Chapter with regard to warranty work. The agreement must be approved upon execution and annually upon renewal of the dealer's license by the commission.

C. All applications for a license shall include evidence that the applicant has such liability protection covering its place of business and its operation that complies with the financial responsibility laws of the state of Louisiana and as determined by the applicant and its insurance agent that are necessary to provide coverage to the place and nature of the business sought to be licensed to protect the applicant and the consumers of this state.

D. All applications for license as a distributor or wholesaler shall include a copy of its franchise with the person, licensed by the commission, whose product it will offer for sale to the licensees of the commission in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010), amended LR 37:2996 (October 2011), repromulgated LR 37:3261 (November 2011).

§109. Records Management; General

A. Any public record maintained by the commission may be kept in any written, photographic, microfilm, or other similar form or method, or may be kept by any magnetic, electronic, optical, or similar form of data compilation that has reasonable safeguards against erasure or alteration, including the use of programs, methods, procedures and/or services that provide secured, portable document formats and digital signatures, and for which the commission has obtained the necessary licenses and/or authorities to insure reasonable safeguards against erasure or alteration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

§111. Subpoenas

A. The executive secretary shall, as and when directed by the commission, issue such subpoenas as the commission may designate to bring before the commission any person in this state, to give testimony under oath, as well as for the purpose of compelling production of records and papers, relative to matters to be investigated, considered or heard by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

Chapter 3. Hearing Procedures

§301. Investigation and Adjudication by the Commission

A. The commission has the responsibility to consider and determine the action necessary upon all charges of conduct which fail to conform to R.S. 32:1251 et seq., as re-enacted and amended, or to the rules and regulations promulgated to carry out the provisions of this Chapter or for the violation of any other law or rule or regulation relating to the sale, lease or rental, distribution or financing of products, and any activities regulated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

§303. Adjudication Process and Procedures

A. The provisions of the Administrative Procedure Act shall govern proceedings on questions of violation of R.S. 32:1251 et seq., as re-enacted and amended. An adjudication proceeding, including the formal hearing, is less formal than a judicial proceeding. It is not subject to strict rules and technicalities, but must be conducted in accordance with considerations of fair play and constitutional requirements of due process.

B. The commission is empowered to conduct investigations to determine compliance with the laws and rules and regulations it administers. The executive director or its designee may issue a subpoena prior to the filing of charges if, in the opinion of the executive director, such a subpoena is necessary to investigate any potential violation or lack of compliance with R.S. 32:1251 et seq., or the rules, regulations, or orders of the commission. The subpoena may be to compel the attendance of any person to appear for the purposes of giving sworn testimony or to compel the production of books, records, papers, or other objects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1547 (July 2010).

§305. Formal Hearing

A. The commission has the authority to bring administrative proceedings with regard to any licensee, applicant for a license, or any person engaged in activities regulated by the commission, as well as to conduct administrative hearings with regard to disputes between its licensees regarding the provisions of R.S. 32:1251 et seq., and other laws and rules and regulations administered by the commission. A person(s), who is a party to the hearing, has the right to appear and be heard, either in person or by counsel; the right of notice, a statement of what accusations have been made; the right to present evidence and to cross-examine; and the right to have witnesses subpoenaed.

B. Notice and Service

1. The executive director fixes a time and place for a hearing.

2. Within 10 days from the time of receipt of the notice of hearing, the noticed party shall file with the executive secretary of the commission an answer admitting or denying separately and in good faith each statement of fact made in the notice. If the noticed party has no knowledge of the truth of any particular fact, he shall so state and it shall be taken as denied. Any fact not expressly denied, or knowledge thereof disclaimed, shall be considered admitted. This rule is for the purpose of preventing the loss of time and expense frequently occasioned in proving and recording facts about which there is not real controversy.

3. If the licensee, or person subject to the hearing, does not appear, in person or through counsel, after proper notice has been given, the person may be deemed to have waived his right to appear and the commission may proceed with the hearing without the presence of the person.

4. Informal disposition of any case of adjudication may be made by stipulation, agreed settlement, consent order or default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 36:1547 (July 2010).

§307. Declaratory Orders and Rulings

A. The commission may issue a declaratory order and ruling pursuant to the Administrative Procedure Act which has the same status as a commission decision or order in an adjudicated case.

B. A request for a declaratory order and ruling shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statutes or rules and regulations to which it relates;
3. a statement of the manner in which the petitioner is aggrieved by the statute or rule or by its potential application to it, or in which it is uncertain of its effects;
4. a statement of whether an oral hearing is desired;
5. other information appropriate for the commission's deliberation on the request.

C. The petition will be considered by the commission at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

§309. Petition for Commission Review of Rule

A. A request by an interested party for the adoption, amendment or repeal of a rule pursuant to R.S. 49:953(C) shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statute or rules to which it relates;
3. a statement of the proposed action requested;
4. a summary of the content of the rule change proposed if for adoption or repeal; a summary of the change in the rule if proposed for amendment;
5. the specific citation of the enabling legislation purporting to authority the requested review;
6. a statement of the circumstances which require the adoption, amendment or repeal of the rule; and
7. other information appropriate for the commission's deliberation on the request.

B. The petition will be considered by the commission at its next regularly scheduled meeting provided the petition has been filed at least 30 days prior to that meeting.

C. The commission will either deny the petition in writing, stating the reason for denial, or shall initiate rule

making proceedings within 90 days after submission of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:499 (March 2013).

Chapter 5. Motor Vehicle Salesmen; Dealers; Distributors

§501. Licenses for Motor Vehicle Salesmen

A. The requirement of licenses for motor vehicle salesmen, as set forth in R.S. 32:1251 et seq., includes any person whose duties include, in whole or in part, the selling, financing, insuring, or participating in the selling of motor vehicles or recreational products.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

§503. Unlicensed Motor Vehicle Salesmen

A. It is illegal for licensees to employ unlicensed motor vehicle salesmen. A motor vehicle salesman must possess a separate license for every licensee and location for which he engages in any selling activity.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

§505. Pocket License Card [Formerly §507]

A. Every motor vehicle salesman, factory representative, and distributor representative, when licensed, will be licensed to represent his employer and must keep his pocket license card on his person, and his employer must retain possession of the license certificate until termination of such employment. Said motor vehicle salesman, factory representative, or distributor representative may not represent another employer without first being issued a license to represent the said particular employer.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

§507. Termination of Motor Vehicle Salesman; Return of Pocket Card and License [Formerly §509]

A. All licenses having motor vehicle salesmen in their employ must, upon termination of such employment, report same to the commission and see to it that said motor vehicle salesman's pocket card and license certificate are immediately returned to the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010)

§509. Unlicensed Motor Vehicle Salesmen; Prohibition against Use of [Formerly §511]

A. Licensees shall not employ or compensate unlicensed motor vehicle salesmen to sell vehicles, and shall not employ or utilize the services of used motor vehicle lots or dealers or other unlicensed "bird dogs" in connection with the sale of vehicles.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1548 (July 2010).

§511. Display of License [Formerly §513]

A. Every licensee must post his license certificate as such in a prominent place in his place of business, stated in such license certificate, and licensees having more than one place of business in Louisiana must obtain a separate license for each place of business and post in each place of business in a prominent place the license for such place of business.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1549 (July 2010).

§513. License Prior to Shipment [Formerly §515]

A. A manufacturer, distributor, converter, factory representative, or distributor representative shall not ship or sell motor vehicles, recreational products, or specialty vehicles to a licensee until the licensee shall have been licensed by the commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1549 (July 2010).

Chapter 7. Advertising

§701. Advertising; Dealer Name

A. Dealers may advertise only under the name that appears on their franchise agreement and dealer license issued by the Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008).

§703. General Prohibition

A. A person advertising vehicles shall not use false, deceptive, unfair, or misleading advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1549 (July 2010).

§705. Specific Rules

A. The violation of an advertising rule shall be considered by the commission as a prima facie violation of R.S. 32:1251 et seq. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the commission to be false, deceptive, or misleading shall be deemed a violation of R.S. 32:1251 et seq., and shall also be considered a violation of the general prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:75 (January 2008), amended LR 36:1549 (July 2010).

§709. Availability of Vehicles

A. Motor vehicle dealers and recreational products dealers may advertise a specific new motor vehicle or new recreational product or line-make which they are licensed to sell if:

1. the specific vehicle or line is in their possession at the time the advertisement is placed, or the vehicle may be obtained from the manufacturer or distributor, and this information is clearly and conspicuously disclosed in the advertisement; and

2. the price advertisement sets forth the number of vehicles available at the time the advertisement is placed or a dealer can show he has available a reasonable expectable public demand based on prior experience. In addition, if an advertisement pertains to only one specific vehicle, then the advertisement must also disclose the vehicle's stock number or vehicle identification number.

B. Dealers may advertise a specific used vehicle for sale only if the specific used vehicle is in the possession of the dealer at the time the advertisement is placed and the title certificate to the used vehicle has been assigned to the dealer, except as provided in Paragraphs 1 and 2, below.

1. A motor vehicle dealer may advertise a used motor vehicle for sale when that used motor vehicle is in the possession of the manufacturer, distributor, or manufacturer's or distributor's affiliated financial institution. That advertisement must clearly and conspicuously disclose that the used motor vehicle is in the possession of the manufacturer, distributor, or manufacturer's or distributor's affiliated financial institution and that the used motor vehicle is available to be shipped to the advertising motor vehicle dealer from the manufacturer, distributor, or manufacturer's or distributor's affiliated financial institution within a reasonable period of time, not to exceed 10 business days.

2. A dealer may advertise a used vehicle for sale when that used vehicle is in the possession of a different dealership(s) under majority common ownership. That advertisement must clearly and conspicuously disclose that the used vehicle is in the possession of an affiliate dealership and state the specific location of the used vehicle, and that the used vehicle is available to be shipped to the dealer within a reasonable period of time, not to exceed 10 business days.

C. This Section does not prohibit general advertising of vehicles by a manufacturer, dealer advertising association, or distributor and the inclusion of the names and addresses of the dealers selling such vehicles in the particular area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:1549 (July 2010), LR 49:1212 (July 2023).

§711. Accuracy

A. All advertised statements shall be accurate, clear and conspicuous.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008).

§713. Untrue Claims

A. The following statements are prohibited, list not exclusive:

1. statements such as "write your own deal," "name your own price," "name your own monthly payments," "appraise your own motor vehicle" or statements with similar meaning;

2.a. statements such as "everybody financed," "no credit rejected," "we finance anyone," "guaranteed approval," and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit;

b. statements such as "all credit applications accepted," or terms with similar meaning are deemed deceptive and shall not be used;

3. statements representing that no other person grants greater allowances for trade-ins, however stated, unless such is the case;

4. statements representing that because of its large sales volume a person is able to purchase vehicles for less than another person selling the same make of vehicles. Statements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet," shall not be used. Any term that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used;

5. "double rebates," "triple rebates" or any other amount of rebates that are not truly offered by the manufacturer are prohibited;

6. specific claims or discount offers shall not be used in connection with any vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck or recreational product. Full explanation must be given, as for example, "Save or discount \$ from manufacturer's list/retail price." Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims.

7. any claims such as "first," "largest" and/or "biggest" may be advertised only when the licensee is the "first," "largest" and/or "biggest" in retail sales for a calendar year. The claim of "first," "largest" and/or "biggest" must be qualified as to validity (using valid source data) and the time period of the claim with all qualifying language to be in the same size print as the claim. Additionally, the advertisement of the claim may only be utilized for the following calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:76 (January 2008), amended LR 36:1549 (July 2010).

§715. Layout

A. The layout, headlines, illustrations, or type size of a printed advertisement and the broadcast words or pictures of radio/TV advertisements shall not convey or permit an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. No advertised offer, expression, or display of price, terms, down payment, trade-in allowance, cash difference, savings, or other such material terms shall be misleading and any necessary qualification shall be clearly, conspicuously, and accurately set forth to prevent misunderstanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§717. Manufacturer's Suggested Retail Price

A. The suggested retail price of a new motor vehicle when advertised by a manufacturer or distributor shall include all costs and charges for the vehicle advertised, except that destination and dealer preparation charges, state and local taxes, title, and license fees may be excluded from such price, provided that the advertisement clearly and conspicuously states that such costs and charges are excluded. With respect to advertisements placed with local media in Louisiana by a manufacturer or distributor which includes the names of the local dealers of the vehicles advertised, if the price of a vehicle is stated in the advertisement, such price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges and may exclude only state and local taxes, license, and title fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:1549 (July 2010).

§719. Dealer Price Advertising

A. The featured price of a new or used vehicle, when advertised, must be the full cash price for which the vehicle will be sold to any and all members of the buying public. The only charges that may be excluded from the advertised price are:

1. state and local taxes;
2. license;
3. title; and
4. notarial fees, convenience fees and documentary fees.

B. A qualification may not be used when advertising the price of a vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer" or "with down payment."

C. If a price advertisement of a new vehicle discloses a rebate, cash back, discount savings claim, or other incentive, the full cash price of the vehicle must be disclosed as well as the price of the vehicle after deducting the incentive. The following is an acceptable format for advertising a price with rebates and other deductions.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995

D. If a rebate is only available to a selected portion of the public and not the public as a whole, the price should be disclosed as in Subsection C first and then the nature of the

limitation and the amount of the limited rebate may be disclosed. The following is an acceptable format.

Mfg. Sugg. Retail Price	\$9,995
less rebate	\$ 500
less dealer discount	\$ 500
Sale Price	\$8,995
First Time Buyer's Receive Additional \$500 Off	

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:1549 (July 2010).

§721. Identification

A. When the price of a vehicle is advertised, the following must be disclosed:

1. model year;
2. make;
3. model line and style or model designation; and
4. whether the vehicle is a used, demonstrator, or a factory executive/official vehicle.

B. Expressions such as "fully equipped," "factory equipped," "loaded," and other such terms shall not be used in any advertisement that contains the price of a vehicle unless the optional equipment of the vehicle is listed in the advertisement.

C. An illustration of a vehicle used in an advertisement must be substantially the same as that of the vehicle advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008), amended LR 36:1550 (July 2010).

§723. Advertising at Cost or Invoice

A. No advertisement shall be run which uses the term or terms "invoice;" "cost;" "percent over/under cost, invoice or profit;" "\$\$\$ over/under cost, invoice or profit."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§725. Trade-In Allowances

A. No guaranteed trade-in amount or range of amounts shall be featured in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§727. Used Vehicles

A. A used vehicle shall not be advertised in any manner that creates the impression that it is new. A used vehicle shall be identified as either "used" or "pre-owned." Terms such as program car, special purchase, factory repurchase, certified or other similar terms are not sufficient to designate a vehicle as used, and these vehicles must also be identified as "used" or "pre-owned."

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:77 (January 2008).

§729. Demonstrators, Factory Executive/Official Vehicles

A. If a demonstrator or factory executive/official vehicle is advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle. A demonstrator or factory executive/official vehicle may be sold only by a dealer franchised and licensed to sell that line-make of vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:1550 (July 2010).

§731. Auction

A. Terms such as "auction" or "auction special" and other terms of similar import shall be used only in connection with a vehicle offered or sold at a bona fide auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§733. Free Offers

A. No merchandise or enticement may be described as "free" if the vehicle can be purchased or leased for a lesser price without the merchandise or enticement of if the price of the vehicle has been increased to cover the cost or any part of the cost of the merchandise or enticement. The advertisement shall clearly and conspicuously disclose the conditions under which the "free" offer may be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§735. Cash Offers

A. Any cash offer or anything that is convertible to cash funded by the dealer shall not be used and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§737. Authorized Dealer

A. The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a

franchise and a Louisiana Motor Vehicle Commission license to sell those vehicles he is holding himself out as "authorized" to sell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§739. Manufacturer and Distributor Rebates

A. It is unlawful for a manufacturer or distributor to advertise any offer of a rebate, refund, discount, or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser or which reduces the amount to be paid for the vehicle, whether the amount is the vehicle purchase price, the interest or finance charge expense, or any other cost accruing to the purchaser if any portion of such rebate, refund, discount, or other financial incentive or inducement is paid or financed or in any manner contributed to by the dealer selling the vehicle, unless the advertisement discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, an advertisement shall disclose that participating dealers contribute to the reduction of the financing rate and that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§741. Rebate and Financing Rate Advertising by Dealers

A. It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, discount, or other financial inducement or incentive if the dealer contributes to the manufacturer's or distributor's program unless such advertising discloses that the dealer's contribution may affect the final negotiated price of the vehicle. With respect to interest or finance charge expense programs, if a participating dealer contributes to the reduction of a financing rate, then a disclosure must state that the dealer's contribution may affect the final negotiated price of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§743. Lease Advertisements

A. Vehicle lease advertisements shall clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Statements such as "alternative financing plan," "drive away for \$_____per month," or other terms or phrases that do not use the term "lease," do not constitute adequate disclosure of a lease. Lease advertisements shall not contain the phrase "no down payment" or words of similar import if any outlay of money is required to be paid by the customer to lease the vehicle. Lease terms that are not available to the general public shall not be included in

advertisements directed at the general public, or all limitations and qualifications applicable to qualified buyers to the lease terms advertised shall be clearly and conspicuously disclosed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§745. Manufacturer Sales; Wholesale Prices

A. New vehicles shall not be advertised for sale in any manner that creates the impression that they are being offered for sale by the manufacturer or distributor of the vehicles. Advertisements by persons shall not contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory approved," "factory sponsored," or any other similar terms which indicate sales other than retail sales from the dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008).

§747. Savings Claims; Discounts

A. A savings claim or discount offer is prohibited except to advertise a new or demonstrator vehicle, and the advertisement must show the difference between the dealer's selling price and the manufacturer's, distributor's, or converter's total suggested list price or MSRP.

B. The featured savings claim or discount offer for a vehicle, when advertised, must be the savings claim or discount which is available to any and all members of the buying public.

C. If a dealer has added an option obtained from the manufacturer or distributor of the vehicle on which it is installed and disclosed the option and factory suggested retail price of the option on a dealership addendum sticker prior to offering the vehicle for sale at retail, the dealer may advertise a savings claim on that vehicle as long as the difference is shown between the dealer's selling price and the total selling price as disclosed on the dealership addendum sticker and discloses the factory-available options added in the advertisement. If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle.

D. Statements such as "up to," "as much as," "from," shall not be used in connection with savings or discount claims.

E. No person may advertise a savings claim or discount offer on used vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:78 (January 2008), amended LR 36:1550 (July 2010).

§749. Sales Payment Disclosures

A.1. An advertisement that contains any one of the following messages, statements, or terms:

- a. the amount of a down payment, in either a percentage or dollar amount;
- b. the amount of any payment, in either a percentage or dollar amount;
- c. the number of payments;
- d. the period of repayment; or
- e. the amount of any finance charge;

2. must include the following:

- a. the amount or percentage of the down payment;
- b. the terms of repayment (the number of months to make repayment and the amount per month) including the amount and due date of any balloon payment;
- c. the annual percentage rate or APR; and
- d. the amount of annual percentage rate, if increased, after consummation of the credit transaction.

B. An advertisement which complies with the Federal Truth-In-Leading Act (15 U.S.C. §160 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section. Any advertisement not in compliance with these federal provisions constitutes violation(s) of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§751. Payment Disclosure—Lease

A. It is an unfair or deceptive act to advertise the offer of a "consumer lease" if the advertisement contains any one of the following two "triggering terms": amount of any payment or a statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation, without clearly and conspicuously disclosing:

- 1. that the transaction is a lease in close proximity to and, where applicable, in the same decibel tone as, the amount of the periodic payment;
- 2. the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;
- 3. the number, amounts, and due dates or periods of scheduled payments under the lease;
- 4. a statement of whether a security deposit is required; and
- 5. a statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the

leased property and its realized value at the end of the lease term.

B. Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is part of the total amount due at lease signing shall not be more prominent than that disclosure.

C. An advertisement which complies with the Consumer Leasing Act of 1976 (15 USC 1601 et seq.), and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§753. Bait Advertisement

A. "Bait" advertisement, as defined in §707, shall not be used by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§755. Lowest Price Claims

A. Representing a lowest price claim, best price claim, best deal claim, or other similar superlative claim shall not be used in advertising.

B. A person may not advertise a "meet or beat" guarantee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:80 (January 2008).

§757. Fleet Prices

A. Terms such as "fleet prices," "fleet sales," "suppliers prices," or other terms implying that retail individual customers will be afforded the same price and/or discount as multi-purchase commercial businesses shall not be used in advertising.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

§759. Bankruptcy/Liquidation Sale

A. No licensee may willfully misrepresent the ownership of a business for the purpose of holding a liquidation sale, auction sale, or other sale which represents that the business is going out-of-business. A person who advertises a liquidation sale, auction sale, or going out-of-business sale shall state the correct name and permanent address of the owner of the business in the advertisement. A person may not conduct a sale advertised with the phrase "going out-of-business," "closing out," "shutting doors forever," "bankruptcy sale," "foreclosure," or "bankruptcy," or similar phrases or words indicating that an enterprise is ceasing business unless the business is closing its operations and

follows the procedures required by Chapter 1, Part II, Title 51, Trade and Commerce, Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 34:79 (January 2008).

Chapter 9. Franchised Dealer Requirements

§901. Display Showroom Requirement [Formerly §1301]

A. Franchised new motor vehicle dealers must have an enclosed new motor vehicle display showroom of not less than 400 square feet in area, and must maintain an adequate stock of replacement parts, an adequate shop area and adequate mechanical facilities for the proper servicing of the motor vehicles which he sells.

B. Provided that low speed vehicles as defined from time to time by the Office of Motor Vehicles and exclusive heavy duty truck dealers are not required to maintain a display showroom as required by this Section.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1550 (July 2010).

Chapter 11. Vehicle Repairs and Services

§1101. Definitions [Formerly §1501]

A. For the purpose of Chapter 11 only, the following definitions shall apply.

Anticipated Repairs, Services, Labor, and Parts—those repairs, services, labor, and parts, which based on the judgement, training, and experience of the supplier will be foreseeably required in order to achieve the results desired by the consumer who requests repairs and services.

Necessary Repairs, Services, Parts and Labor—those repairs, services, parts and labor which, in the judgement of the supplier, are required to fully remedy or prevent a defect or malfunction.

Original Estimate—an approximation of the cost of anticipated repairs and services to be performed by a supplier which does not exceed the subsequent actual cost of such anticipated repairs and services by more than 25 percent.

Supplier—any new or unused vehicle dealer who furnishes or supplies vehicle repairs and services, either directly or through the employment of other mechanics or repairmen; provided, however, that vehicle repairs and

services performed on vehicles over 20,000 pounds, GVWR are excluded for the purposes of Chapter 11.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1550 (July 2010).

§1103. Unfair Acts and Practices [Formerly §1503]

A. It shall be an unfair act or practice, in connection with a transaction involving motor vehicle repairs and services for a supplier of such repairs and services to do any of the following:

1. if specifically requested by consumer, when the anticipated repairs exceed \$125, then to fail to provide in advance, to a consumer seeking repairs and services, a written original estimate of the cost to the consumer of all anticipated repairs and service, including any charge for disassembly or reassembly of any parts disassembled for inspection and any service charge of any type to be imposed:

a. such written estimate shall include, in separate columns an itemized list of each anticipated repair to be performed, the anticipated labor charge involved for each repair, and the cost to the consumer of anticipated parts to be replaced;

b. the requirement of §1103 shall be satisfied by the statement of a flat rate price if such repairs and services are customarily done and billed on a flat rate basis;

c. notwithstanding anything herein to the contrary, if disassembly for inspection is necessary to determine the extent of anticipated repairs before an original estimate can be given, then any charge for such disassembly and/or reassembly shall be disclosed in advance: provided further that the amount of the charge referred to herein shall not be conditioned upon the consumer consenting to performance of the inspection by the supplier who performs said inspection;

d. a fair charge may be made by the supplier for the service of preparing this written estimate; said charge not to exceed \$5 for an estimate up to \$200 and not to exceed \$10 for estimate in excess of \$200 if same is made on the premises of the supplier, and notice of this charge must be posted as designated in §1103.A.3;

2. if an original written estimate is requested by a consumer, then, to fail to obtain oral or written authorization from the consumer for subsequently arising unanticipated, but necessary, repairs, services, parts and labor, when those repairs, services, parts and labor will exceed the cost estimated in the original estimate, or itemized part thereof, by more than 25 percent excluding tax:

a. when unanticipated, but necessary, repairs, services, parts and labor are needed and authorization to perform same is obtained from the consumer, the cost of

these additional repairs, services, parts and labor shall be separately estimated in writing and a copy of this separate estimate made available to the consumer;

3. to fail to post in a conspicuous place in the service reception area a sign with a white background and having black letters at least 1 inch in height which reads as follows:

a. Notice to our customers:

i. "You may request a written estimate, in advance, before authorizing us to repair your vehicle if it is anticipated that such repairs might exceed \$125. Our charge for such estimate is \$ for any job up to \$200 and \$ for jobs in excess of \$200";

b. provided that the supplier makes no charge for a written estimate then he may delete the last sentence of the above notice and insert in its place a statement that no charge is made for the estimate;

c. provided further that the supplier may at his option, change the \$125 requirement to a lesser amount;

4. to fail to reassemble any parts disassembled for inspection unless the consumer is so advised prior to acceptance for inspection by the supplier;

5. to willfully represent that repairs are necessary when such is not the fact;

6. to willfully represent that repairs have been made when such is not the fact;

7. to willfully represent that the parts being inspected or diagnosed are in a dangerous condition or that the consumer's continued use of them may be harmful to him when such is not the fact;

8. to willfully understate or misstate the estimated cost of repairs, services, parts and labor in excess of 25 percent for the purpose of inducing a consumer to enter into a transaction for repairs and services;

9. to fail to disclose the intended use of used parts in conjunction with repairs and services, or to install used parts without the knowledge and consent of the consumer;

10.a. to fail to provide the consumer with an itemized bill indicating repairs and services actually performed, parts actually replaced, or materials actually used, the total labor charge, and the name of the mechanic, repairman, or supplier who performed the work;

b. the requirements of §1103.A.10.a shall be satisfied by a bill reflecting a flat rate price if such repairs and services are customarily done and billed on a flat rate basis.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1550 (July 2010).

§1105. Replaced Parts **[Formerly §1505]**

A. Upon request of the consumer at the time the repair order is written, the supplier shall then tender to such consumer any replaced parts at the time the job is delivered, unless the parts are to be rebuilt or sold by the supplier, or if the part is a warranty part that must be returned to the manufacturer, and such intended reuse or return is made known to the consumer at the time of the request.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1551 (July 2010).

Chapter 13. New Motor Vehicle Auto Shows; Offsite Displays

§1301. Authorization for Auto Show

A. The commission may authorize or prohibit motor vehicle sales and shows at offsite locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1551 (July 2010).

§1303. Application for Show Permit

A. The organizer or promoter of a new motor vehicle auto show shall be required to obtain a license from the commission and its request for a license shall consist of the following:

1. the application shall be on a form prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2 a license fee of \$500;

3. the license shall be for the new motor vehicle auto show subject of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1551 (July 2010).

§1305. Show Requirements

A. The application must be submitted to the commission no less than 60 days prior to the opening date of the event and must include a list of all licensed motor vehicle dealers within the geographical area.

B. Only licensed motor vehicle dealers may conduct sales of motor vehicles at such sales and shows.

C. The show must be for a particular geographical area, not less than a parish. The geographical area cannot include a part of a parish.

D. All licensed motor vehicle dealers within the show's geographical area must be offered the opportunity to participate in the show.

E. A majority of the licensed motor vehicle dealers within the show's geographical area must participate in the event.

F. Each respective manufacturer shall grant authority to the respective dealers participating to conduct the sale or show of motor vehicles at the proposed offsite location.

G. A licensed motor vehicle dealer may participate in only two shows in a calendar year.

H. Not less than 30 days prior to the opening day of the show the commission must receive a list of all participating licensed motor vehicle dealers together with the consent of each respective manufacturer.

I. Participation by a licensed motor vehicle dealer shall include display of vehicles and presence of dealer personnel

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 36:1552 (July 2010).

§1307. Static Offsite Displays

A. The executive director must approve all offsite displays of vehicles. A licensee's request to display vehicles at an offsite location must be received by the commission seven days prior to the commencement of the display.

B. The location of each display must be within the licensee's defined area of responsibility for the make and model to be displayed, if applicable.

C. Each offsite display will be limited to 30 days, unless the licensee submits a copy of the contract for the location of the offsite display and then the display will be limited to the length of the contract up to a six month period. There will not be a limit on the number of offsite displays allowed per year, per licensee.

D. The number of vehicles at any offsite display will be left to the discretion of the executive director.

E. The presence of any sales personnel, business cards, brochures, pricing sheets, or any other point of sale device is strictly prohibited. The only pricing information allowed on any vehicle(s) displayed will be the Maroney label which is required by federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2996 (October 2011), repromulgated LR 37:3261 (November 2011), amended LR 39:3071 (November 2013).

§1309. Manufacturer's Motor Vehicle Display

A. A manufacturer's motor vehicle display is a vehicle display arranged by a licensed manufacturer, distributor or wholesaler to demonstrate its motor vehicles to the general public. A licensee's request to display motor vehicles must be received by the commission 30 days prior to the commencement of the display.

B. Each manufacturer's motor vehicle display will be limited to 10 days.

C. The number of motor vehicles at any manufacturer's motor vehicle display will be left to the discretion of the executive director.

D. The manufacturer vehicle display may be manned by product specialists, but no licensed motor vehicle dealer personnel will be allowed on the display site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 39:3071 (November 2013).

Chapter 15. Recreational Product Shows

§1501. License and Regulation of Recreational Product Shows

A. The commission shall license and regulate recreational product shows at offsite locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2996 (October 2011), repromulgated LR 37:3262 (November 2011), amended LR 39:499 (March 2013).

§1503. Promoter, Producer or Organizer License Fee and Application [Formerly §1505]

A. A promoter, producer or organizer shall obtain a license from the commission and its request for a license shall consist of the following:

1. the application for license shall be on forms prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;
2. a license fee of \$500 for each year covered by the license;
3. a list of shows proposed or planned for the licensed year. This list shall be updated on an annual basis.

B. Any application not received at the appropriate time shall be charged a late fee in accordance with R.S. 32:1255(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2997 (October 2011), repromulgated LR 37:3262 (November 2011), amended LR 39:499 (March 2013).

§1505. Recreational Product Show License Fee and Application
[Formerly §1507]

A. The promoter, producer or organizer of a regional or national recreational product show shall be required to obtain a license for the show from the commission and its request for a license shall consist of the following:

1. the application shall be on a form prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;
2. a license fee of \$100;
3. the license shall be for the recreational product show subject of the application.

B. The application must be submitted to the commission no less than 90 days prior to the opening date of the recreational product show. Any application received after that date shall be charged a late fee in accordance with R.S. 32:1255(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2997 (October 2011), repromulgated LR 37:3262 (November 2011), amended LR 39:499 (March 2013).

§1507. Regional Recreational Product Show; Invitation and Priority

A. The promoter shall contact and invite all licensees of the type of recreational products to be displayed at a regional recreational product show as follows.

1. All Louisiana recreational product dealers whose area of responsibility for the brands they represent includes the location of the show shall not later than 75 days prior to the beginning date of the show be invited and have the first option to participate in the show. These licensees shall notify the promoter or producer of its participation in the show within 10 business days of the receipt of the invitation.

2. Louisiana dealers whose area of responsibility does not include the location of the show shall not later than 60 days prior to the beginning date of the show be invited and have the second option to participate in the show, provided that a dealer shall not show the same brand of recreational product as shown by a participating Louisiana recreational product dealer whose area of responsibility includes the location of the show.

3. The promoter shall accept any request from a licensed Louisiana recreational product dealer not excluded by Paragraph 2 of this Subsection to participate in the show so long as space is available at the location of the show as determined by the producer. These licensees shall notify the

producer or promoter of its participation in the show within 10 business days of the receipt of the invitation.

4. The promoter after complying with Paragraphs 1, 2 and 3 of this Subsection, may invite nonresident recreational product dealer, distributors, or manufacturers who shall not show the same brand of recreational products as shown by participating Louisiana recreational product dealers.

5. No recreational vehicle dealer, distributor or manufacturer shall participate in any regional recreational product show where its product line of recreational vehicles is represented by a dealer whose area of responsibility includes the location of the show, whether or not that dealer participates in the show. If no dealer's area of responsibility includes the location of the show, any dealer, distributor or manufacturer of a product line of recreational vehicles may participate in the show for so long as space is available as determined by producer.

6. The promoter shall maintain all records of invited, participating and declining dealers and shall furnish these records to the commission 10 working days prior to the opening of the recreational products show.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:499 (March 2013).

§1509. Non-Louisiana Display Permit Fee and Application

A. A non-Louisiana recreational product dealer, distributor or manufacturer shall obtain a display permit to participate in a regional recreational product show not later than 10 business days prior to the date of the show by providing the following:

1. its name and address;
2. a copy of its current equivalent license from the state of its domicile;
3. a statement to be disclosed at the show to attendees the location of where warranty repairs will be made for products it will display at the show;
4. the name, site and date of the show for which a display permit is sought; and
5. a registration fee of \$250.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:500 (March 2013).

§1511. Sales at a Regional Recreational Product Show

A. Except for a licensed Louisiana recreational product dealer whose area of responsibility includes the site of the regional recreational product show, a licensed recreational product dealer or non-resident recreational product dealer may not complete a sales transaction (by accepting purchase funds, completing the paperwork and delivering a product) for recreational products at a regional recreational product show. This restriction shall not apply to or extend to sales

price negotiation, accepting deposits, setting closing dates, or completing a buyer's order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:500 (March 2013).

Chapter 17. Recreational Product Static Offsite Displays; Offsite Expositions

§1701. Offsite Expositions of Recreational Products [Formerly §1513]

A. The executive director must approve all offsite expositions by licensed recreational products dealers. A request for an offsite exposition, accompanied by a fee of \$200, must be received and approved by the executive director 10 days prior to the commencement of the exposition. Any application received after that date shall be charged a late fee in accordance with R.S. 32:1255(B).

B. The location of any off-site exposition must be within the dealer's area of responsibility.

C. An off-site exposition of recreational products is limited to a single dealer and shall not exceed nine days.

D. A recreational products dealer may have only four off-site expositions per calendar year and at the same location only once each six months.

E. The number of vehicles at any off-site exposition of recreational products will be left to the discretion of the executive director.

F. The presence of any sales personnel, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. However, recreational products cannot be delivered from the off-site exposition location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2997 (October 2011), repromulgated LR 37:3263 (November 2011), amended LR 39:500 (March 2013).

§1703. Static Offsite Displays

A. The executive director must approve all offsite displays of recreational products. A licensee's request to display recreational products at an offsite location must be received by the commission seven days prior to the commencement of the display.

B. The location of each display must be within the licensee's defined area of responsibility for the make and model to be displayed, if applicable.

C. Each offsite display will be limited to 30 days, unless the licensee submits a copy of the contract for the location of the offsite display and then the display will be limited to the length of the contract up to a six month period. There will

not be a limit on the number of offsite displays allowed per year, per licensee.

D. The number of recreational products at any offsite display will be left to the discretion of the executive director.

E. The presence of any sales personnel, business cards, brochures, pricing sheets, or any other point of sale device is strictly prohibited. The only pricing information allowed on any vehicle(s) displayed will be the Maroney label which is required by federal law or, with regard to recreational vehicles, the manufacturer's suggested retail price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:500 (March 2013).

§1705. Licensee Participation in a Rally [Formerly §1515]

A. Closed Rally

1. A closed rally is conducted and limited to a single product line.

2. A closed rally shall be subject to the provisions of §1701 of this Chapter.

B. Open Rally

1. An open rally is conducted with multiple product lines invited to participate.

2. An open rally is subject to all provisions of this Chapter related to recreational product shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 32:1256.1(F).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 37:2998 (October 2011), repromulgated LR 37:3263 (November 2011), amended LR 39:501 (March 2013).

§1707. Recreational Products Manufacturer's Display

A. A recreational products manufacturer's display is a product display arranged by a licensed manufacturer, distributor or wholesaler to demonstrate its recreational products to the general public. A licensee's request to display recreational products must be received by the commission 30 days prior to the commencement of the display.

B. Each manufacturer's recreational products display will be limited to 10 days.

C. The number of recreational products at any manufacturer's display will be left to the discretion of the executive director.

D. The manufacturer's recreational products display may be manned by product specialists, but no licensed recreational products dealer personnel will be allowed to participate or work on the display site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:3071 (November 2013).

Chapter 19. Manufacturer, Distributor or Wholesaler License Application; Submission of MSO/MCO; Information Included

§1901. Manufacturer, Distributor or Wholesaler License Application; License Application

A. An application for a license as a vehicle manufacturer, distributor or wholesaler required by R.S. 32:1254 must be accompanied by a manufacturer's statement/certificate of origin (MSO/MCO).

B. The MSO/MCO may be prepared at a factory, assembly plant, or business authorized by the manufacturer. Although variations exist, and MSO/MCO normally is 7"x11" in size, on paper stock 60 pound offset or equivalent durability, and printed with security features that include:

1. sensitize security paper without added optical brighteners that will not fluoresce ultraviolet light;
2. engraved border and prismatic-rainbow printing with copy void pantograph (the word "void" appears when the document is copied); and
3. two complex colors (colors developed by using a mixture of two or more primary colors and black) and two

security threads, with or without watermark, and/or intaglio print, with or without latent image, and/or security laminate.

C. The MSO/MCO must contain at least the following information:

1. first conveyance of the vehicle after its manufacture;
2. the model year;
3. make;
4. model, body style;
5. vehicle identification number or serial number if all terrain (ATV) or off-road (ORV) vehicle;
6. an indication that the vehicle was not manufactured for road use, if applicable;
7. shipping weight or curb weight; and
8. the manufacturer's name and address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1253(E) and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 39:3071 (November 2013).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry
Subpart 3. Motor Vehicle Sales Finance

Chapter 71. General Provisions

§7101. Louisiana Motor Vehicle Commission

A. The Louisiana Motor Vehicle Sales Finance Act is administered by the Louisiana Motor Vehicle Commission.

B. The office and domicile of the Louisiana Motor Vehicle Commission is 3519 Twelfth Street, Metairie, LA 70002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:921 (April 2005).

§7103. Definitions

Chapter—R.S. 6:969.1, et seq.

Commission—Louisiana Motor Vehicle Commission.

Consumer Credit Sale—the sale of a motor vehicle on credit under which the seller acquires a purchase money security interest in the purchased vehicle, and incident to which a credit service charge is charged and the consumer is permitted to defer all or part of the purchase price or other consideration in two or more installments excluding the down payment. A *consumer credit sale* does not include a lease of a motor vehicle under any circumstance, whether or not the lease constitutes a true lease or financed lease within the context of the Louisiana Lease of Movables Act, R.S. 9:3301, et seq. A consumer credit sale may be secured by other collateral in addition to the purchased vehicle.

Consumer Loan—a loan of money or its equivalent made by a lender, the proceeds of which are used by the consumer to purchase or refinance the purchase of a motor vehicle, or which proceeds are used for personal, family, or household purposes, including debts created by the use of a lender credit card, revolving loan account, or similar arrangement, as well as insurance premium financing, with the lender acquiring a purchase money security interest in the purchased motor vehicle. A consumer loan may be secured by other collateral in addition to the purchased vehicle. The provisions of this Paragraph shall not apply to a consumer loan made pursuant to the Louisiana Deferred Presentment and Small Loan Act, R.S. 9:3578.1 et seq.

Person—an individual or corporation, partnership, limited liability company, trust, association, joint venture pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:921 (April 2005).

Chapter 73. Licensing

§7301. License Requirement and Exception

A.1. No person unless exempt from licensing under R.S. 6:969.36 shall engage in the business of:

a. making consumer loans or the origination of consumer credit sales;

b. taking assignments of and undertake direct collection of payments from or enforcing rights against consumers under a consumer loan or consumer credit sale;

2. without first filing an application, paying a non-refundable application fee and obtaining a license from the commission. An assignee may, however, collect and enforce consumer obligations of which it has taken assignment for three months without a license if the assignee notifies the commission in writing, the assignee promptly applies for a license, and the application is not rejected.

B. A license is required whether or not the applicant has one or more offices in this state.

C. A license is required for each office maintained in this state. If a licensee makes direct consumer loans to consumers at a seller's location, that location is not deemed to be a branch office of the lender.

D. All of the following shall be exempt from the licensing requirements of this Chapter:

1. supervised financial organizations;

2. trusts and trustee, including without limitation securitization trusts and trustees;

3. assignees with no offices in this state holding motor vehicle contracts on an interim basis for a period of 90 days or less;

4. governmental agencies, instrumentalities, or public entities organized by Act of Congress or the Legislature of Louisiana;

5. qualified pension plans when entering into an extension of credit to a plan participant;

6. bona fide pledgees of motor vehicle credit contracts;

7. persons holding motor vehicle contracts for servicing or collection on behalf of the actual owner of such obligations;

8. licensed new motor vehicle dealers to the extent that they regularly sell, assign, and transfer contracts originated by them to third party assignees within 60 days following origination. A licensed new motor vehicle dealer may retain at any one time, and from time to time thereafter, a maximum of 12 contracts for its own account without being subject to the licensing requirements of this Chapter.

E. The commission may waive the licensing and examination requirements for a subsidiary of an entity as described in Paragraph D.1.

F. The application shall be in writing, under oath, and in the form prescribed by the commission. The application shall contain: the name of the applicant; date of incorporation, if incorporated, date of formation if a partnership or limited liability company or other entity; the address where the business is to be conducted and similar information as to any branch office of the applicant in this state; the name and resident address of the owner, members or partners or, if a corporation or association, of the directors, trustees, and principal officers; and such other pertinent information as the commission may require to make an evaluation of the applicant.

G. No license shall be issued unless the commission, upon investigation, finds that the financial responsibility, business integrity and ability to properly conduct the business by the applicant's owner, partners if the applicant is a partnership, members if the applicant is a limited liability company, officers and directors if the applicant is a corporation, and the applicant if a sole proprietorship are such to warrant a belief that the business shall be conducted honestly and fairly within the purposes of this Chapter and they each meet the following requirements:

1. be 18 years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;
2. be of good character and fitness; and
3. not been convicted of a felony in the previous ten years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's or presidential pardon.

H. No license shall be issued in any name other than its legal name or assumed name properly filed in accordance with the statutes of this state and set forth in the license application. No license shall be issued in any name which may be confused with or which is similar to any federal, state, parish, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing license as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

I. Each license expires December 31 and must be renewed annually by the licensee.

J. No license shall be sold or otherwise transferred.

K. A licensee shall give the commission 30 days prior written notice of any location change.

L. A licensee shall notify the commission in writing within 30 days after ceasing to do business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:922 (April 2005).

§7303. Denial of License

A. The applicant shall be entitled to a hearing on the question of his qualifications for a license if the applicant requests such in writing to the commission and either of the following has occurred.

1. The applicant has received notification from the commission that his application has been denied.

2. The commission has not issued to the applicant a license and it has been 60 days since the date that the application for the license was filed with the commission.

B. The denial notice from the commission to the applicant shall be in writing and shall state, in substance, the commission's findings supporting the denial of the application. Such notice shall be sent certified mail, return receipt requested, to the primary business address on the application.

C. A request for a hearing based on the denial of an application must be received by the commission, in writing, within 15 days of the date that the commission mailed the denial notice to the applicant.

D. Upon receipt of the request for a hearing, the commission shall give the applicant at least 30 days written notice of the time and place of such hearing by certified mail addressed to the primary business address on the application.

E. The hearing will be conducted in accordance with the Administrative Procedure Act and the rules and regulations of the commission.

F. Within 30 days after a denial or revocation of a license, the licensee may apply for a review thereof by application to the district court for the parish of Jefferson in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:923 (April 2005).

§7305. Renewal Application

A. Annually by November 1 each licensee shall file a renewal application and pay a non-refundable renewal fee.

1. An annual renewal application received by the commission postmarked after December 1 shall be accompanied by a late filing fee, in addition to the annual renewal fee.

2. If the annual renewal application and renewal fee are not received postmarked by December 31, the license shall lapse without a hearing or notification, and the license shall not be reinstated; however, the person whose license has lapsed may apply for a new license. No new license shall be issued upon the filing of a new application by any person against whom any penalty or late fee has been imposed unless and until such penalty or late fee previously accrued under this Section has been paid, and the commission has determined that the applicant has the requisite qualifications for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:923 (April 2005).

§7307. Suspension, or Revocation of License

A. Renewal of a license originally granted under this Chapter may be denied or a license may be suspended or revoked by the commission for any of the following grounds:

1. material misstatements in the application for a license;
2. failure to comply with any provision of this Chapter relating to motor vehicle credit transactions;
3. defrauding any consumer purchaser of a motor vehicle to the consumer's damage;
4. fraudulent misrepresentation, circumvention, or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the purchasing consumer under this Chapter.

B. If the licensee is a person, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, trustee, partner, or member of the licensee has so acted or failed to act as would be cause for suspending or revoking the license to such party as an individual.

C. Each licensee shall be responsible for the acts of any and all of its employees while acting as its agent, if such licensee after actual knowledge of such acts retained the benefits, proceeds, profits, or advantages accruing from such acts or otherwise ratified such acts.

D. No license shall be suspended or revoked by the commission except after a hearing in the form of an order to show cause. The commission shall give the licensee at least 30 days written notice of the time and place of such hearing which notice shall contain the grounds for the suspension or revocation of the license. The notice shall be sent by certified mail, return receipt requested, addressed to the primary business address on the application.

E. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the commission and shall not be effective until after 30 days written notice thereof given after such entry forwarded by certified mail to

the licensee at such primary business address on the application.

F. No revocation, suspension, or surrender of any license shall impair or affect the obligation under any motor vehicle credit contract or agreement entered into or acquired previously thereto by the licensee.

G. The hearing will be conducted in accordance with the Administrative Procedure Act and the rules and regulations of the commission.

H. Within 30 days after such suspension or revocation of a license, the licensee may apply for a review thereof by application to the district court for the parish of Jefferson in accordance with the Administrative Procedure Act.

I. Prior to the institution of commission proceedings regarding the revocation, suspension, annulment, or withdrawal of a license, when such action must be accomplished pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

1. The commission shall give notice by mail to the licensee, setting forth the facts or conduct which serve(s) as the commission's basis for such action. The notice shall advise the licensee that he is being offered an opportunity to participate in an informal meeting with a representative of the commission to show compliance with all lawful requirements for retention of the license, in conformity with R.S. 49:961(C).

2. The licensee shall have 15 calendar days from receipt of such notice to request, in writing, an informal meeting. Such informal meeting shall be held not less than 10 days nor more than 30 days following receipt of the licensee's request for the meeting, unless the commission determines that an extension is warranted.

3. Notwithstanding any other provision of this rule, if the commission finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order to the licensee, summary suspension may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:923 (April 2005).

§7309. Fees

- A. All fees are non refundable.
- B. License application fee per location—\$400.
- C. License renewal fee and late penalty per location—\$400; late fee—\$100.
- D. Change of location—no charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:924 (April 2005).

Chapter 75. Examination and Record Retention

§7501. Examination

A. The commission shall have the power to examine all books, records and accounts of all persons licensed under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:924 (April 2005).

§7503. Records Retention

A. Each person required to be licensed under this Chapter shall maintain in its offices such books, records and accounts of its lending activities as the commission may prescribe by policy as required to determine whether such licensee is complying with the provisions of this Chapter and the rules, regulations and policies promulgated under the provisions of this Chapter included by not limited to the following:

1. the original or a copy of all documentation signed by the consumer, including but not limited to:

- a. note;
- b. disclosure statement;
- c. financing statement (or equivalent);

2. individual account of the borrower (ledger card or printable computer screen) showing the following:

- a. amount of loan;
- b. origination date;
- c. repayment terms;
- d. insurance charges, whether sold in connection with the loan or not;
- e. total finance charge;
- f. annual contractual percentage rate;
- g. date, amount and application of each payment;
- h. date and amount of late charges assessed;
- i. date and amount of deferral charges;
- j. remaining unpaid balance;
- k. due date of first payment;
- l. all changes in due date of payment;

3. all paid out accounts (including those paid out by renewal) must be filed separately and contain the following:

- a. interest rebate;
- b. itemized rebate of all insurance premiums;

4. accounts turned over to an attorney for collection:

- a. amount paid to attorney, including court costs and attorney fees shown as separate charges;

b. receipt from Clerk of Court, evidencing court costs;

5. accounts reduced to judgment:

- a. same documents as for attorney accounts;
- b. receipt from Clerk of Court, evidencing any additional court costs;

c. copy of signed judgment;

6. death claims:

- a. copy of death certificate;
- b. copy of all checks or other evidence of payment received from insurance company in payment of claim;
- c. copy of check evidencing payment to secondary beneficiary, where applicable;

7. insurance records:

a. copy of master policy for each type of insurance sold to consumers;

b. copy of rates approved by the Insurance Rating Commission, except for those established by the Louisiana Motor Vehicle Sales Finance Law;

c. lenders will be expected to provide proof of compliance as set out by the commissioner of insurance;

d. proof of remittance of premiums to the previous underwriter;

8. paid out accounts containing errors cited at the previous examination:

- a. must be separately filed or identified;
- b. must contain proof of correction of error, including copies of refund checks issued to consumers;

9. any other records that may be deemed necessary by the commission to determine compliance with the provisions of the Louisiana Motor Vehicle Sales Finance Law.

B. Period for Retention of Records. All records must be retained for at least two years after the account is paid in full, or any insurance coverage remaining in force after the account has been paid has lapsed, unless required by law to be retained for a longer period. Records are required to be kept indefinitely during the pendency of an investigation or enforcement proceedings involving alleged violations.

C. Variance. After considering the particular facts and circumstances of an individual licensed lender's recordkeeping procedures, and the public interest in promoting the efficiency and effectiveness of compliance examinations, the commission may formally grant a variance to a licensed lender to any requirement in this rule.

D. Such books, records, and accounts shall be maintained separate and apart from any other business which the agency is involved. If the licensee's books, records, and accounts are located outside the state, the licensee, at the commission's option, shall make them available to the

commission at a location within the state convenient to the commission, or pay the reasonable and necessary expenses for the commission or its representatives to examine them at the place where they are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:924 (April 2005).

Chapter 77. GAP Coverage

§7701. Definition

A. GAP coverage covers a consumers deficiency balance between the net payoff of the consumers loan retail installment sales contract at the time of a loss and the amount paid by the consumers primary insurance after a vehicle is deemed a total loss due to any direct or accidental physical damages or unrecovered theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7703. Types of Coverage

A. Guaranteed Auto Protection (GAP) offered by a Property and Casualty (P&C) company licensed and regulated by the Louisiana Department of Insurance.

B. Guaranteed Auto Protection (GAP) offered by a Property Residual Value Insurer (PRVI) licensed and regulated by the Louisiana Department of Insurance.

C. Debt waiver or debt forgiveness agreements regulated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7705. Offer of Coverage

A. The seller shall and the extender of credit may offer a consumer the option of voluntarily purchasing GAP coverage in a transaction involving a consumer loan or consumer credit sale secured by a motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7707. Debt Waiver or Debt Forgiveness Agreement

A. Debt waiver or debt forgiveness is an agreement whereby a extender of credit agrees with the consumer to waive any unpaid balance on a consumer loan or consumer credit sale due to a physical damage total loss or constructive loss or unrecovered theft to the covered collateral secured by an eligible security device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7709. Insurance Coverage

A. An extender of credit may insure its debt waiver or debt forgiveness agreement by an insurance company licensed by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7711. Debt Waiver or Debt Forgiveness Requirements

A. The retail installment sales contract must have an addendum where upon the extender of credit agrees to waive the consumers debt for the difference between the amount paid by the consumers primary insurance and the net payoff of the contract.

B. There shall be a clear statement in the waiver form that is given to the consumer that the consumer's debt is waived. The following is an example:

The extender of credit hereby agrees, by acceptance of this Addendum as an amendment to the Retail Installment Sales Contract upon assignment, to waive the consumers liability for the difference between the amount owed (excluding past due amounts, payment extensions, insurance or other charges) under the consumers retail installment sales contract and the actual cash value of the consumers vehicle as of the date of the total loss of the consumers vehicle resulting from a peril covered by the consumers primary insurance company.

C. The consumer shall have the right to cancel the debt waiver or debt forgiveness agreement and shall be entitled to a refund of the premium paid no less favorable to the consumer than the rule of 78's or pro-rata.

D. The agreement shall contain a statement of how the unpaid net balance is determined. In making this determination, unearned interest, loan charges, late charges, any delinquent payments, any uncollected service charges, refundable prepaid taxes or fees or any other proceeds the consumer may recover by cancelling insurance coverages, service contracts or warranties, disposition fees, termination fees, penalty fees or other items built into or added to the initial loan balance are not covered by the agreement.

E. There shall be no deductible provision in the agreement.

F. There may be a limited waiver of subrogation which shall apply only to sums actually paid or waived on behalf of the consumer.

G. The claim shall be paid within 60 days of the incident or 30 days from filing of the police report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7713. Filing

A. No person shall offer for sale a debt waiver or debt forgiveness agreement in this state until its sale materials, agreements, insurance policies and any and all documents used in connection with its offer and sale of such agreements shall be filed with the commission.

B. Within 30 days of the receipt of the filing, the commission will notify the filing party of any additional requirements or grant its approval for the sale of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

Chapter 79. Powers of Commission

§7901. Subpoenas and Oaths

A. The commission shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control, or supervision pertaining to this Chapter. The commission shall have the power to administer oaths and affirmations to any person whose testimony is required.

B. Whenever a person becomes licensed by the commission, pursuant to this Chapter, such person shall provide a physical address to the commission that may be used as a basis for service or notification of any order or other issuance or communication by the commission to such person. Whenever such person changes his physical address, it shall notify the commission at least 30 days prior to the change. Notification or service of any order, notice, or other issuance or communication by the commission by certified mail to the address most recently provided to the commission by the person shall satisfy all requisites of service required for any registration, administrative enforcement, or other action, undertaken by the commission pursuant to the Administrative Procedure Act or otherwise, in connection with such person.

C. If any person shall refuse to obey any such subpoena, to give testimony, or to produce evidence thereby, the commission may apply to the 24th Judicial District Court for the Parish of Jefferson for an order awarding process of subpoena or subpoena duces tecum out of the district court for the witness to appear before the commission and to give testimony and to produce evidence as required thereby.

D. If any person served with any such subpoena shall refuse to obey the same and to give testimony and to produce evidence as required there, the commission may apply to the 24th Judicial District Court for the Parish of Jefferson for an attachment against such person, as for a contempt.

E. The commission, if it has reason to believe that any licensee or any other person has violated any of the provisions of this Chapter relating to motor vehicle credit transactions shall have the power to make such investigations as it shall deem necessary and, to the extent necessary for this purpose, the commission may examine such licensee or any other person and shall have the power to compel the production of all relevant books, records, accounts and documents.

F. Any consumer having reason to believe that this Chapter relating to the consumer's motor vehicle credit transaction has been violated may file with the commission a written complaint setting forth the details of such alleged violation. The commission, upon receipt of such complaint, may inspect the pertinent books, records, letters of the lessee and of the consumer involved relating to such specific written complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

§7903. Cease and Desist Orders

A. The commission shall have the power to issue cease and desist orders to protect the public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

§7905. Penalties

A. In addition to any other authority conferred upon the commission by this Chapter the commission may impose fines and penalties against persons violating the provisions of this Chapter and the rules and regulations adopted thereunder.

B. The commission may impose a fine on any person who willfully violates any provision of this Chapter and the rules and regulations adopted thereunder in an amount not to exceed \$5,000 per violation.

C. The commission may impose a fine on any person who originates or purchases a contract subject to this Chapter of \$1,000 for each contract, who has not first obtained a license from the commission.

D. The commission may render judgment for costs, or any part thereof, against any party to proceedings held or scheduled to be held before the commission as it may consider equitable. These costs shall include but shall not be limited to court reporter fees, commission attorney fees, the mileage and per diem of the commissioners, and other applicable reasonable costs.

E. Any person who is required to be licensed under this Chapter and who fails to timely purchase a license herein provided may be ordered by the commission to pay a penalty of \$100 in addition to the regular license fee herein provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

§7907. Advisory Opinions

A. The commission, its employees and attorneys may issue advisory opinions and interpretations regarding this Chapter. Advisory opinions and interpretations of the commission or its employees and attorneys shall not be

considered rules requiring compliance with the rule making process under the Administrative Procedure Act.

B. Any actions taken by an extender of credit pursuant to any opinion or interpretation made by the commission, its officers or attorneys shall not be deemed to be a violation of this Chapter.

C. The commission or its employees and attorneys shall have no liability to any person with respect to the issuance of a ruling or interpretative opinion made under this Chapter.

D. A request for an advisory opinion or interpretation shall be in writing and shall set forth the specific statute or rules and regulations to which the request relates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

§7909. Declaratory Orders and Rulings

A. The commission may issue a declaratory order and ruling pursuant to the Administrative Procedure Act which has the same status as a commission decision or order in an adjudicated case.

B. A request for a declaratory order and ruling shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statutes or rules and regulations to which it relates;

3. a statement of the manner in which the petitioner is aggrieved by the statute or rule or by its potential application to it, or in which it is uncertain of its effects;

4. a statement of whether an oral hearing is desired;

5. other information appropriate for the commission's deliberation on the request.

C. The petition will be considered by the commission at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

§7911. Cooperative and Reciprocal Agreements

A. The commission may enter into cooperative and reciprocal agreements with the regulatory authorities of the federal government or any state for the periodic examination of persons engaged in the business regulated by this Chapter and may accept reports of examination and other records from such authorities in lieu of conducting its own examinations. The commission may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out its responsibilities under this Chapter and assure compliance with the laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:927 (April 2005).