

NOTICE OF INTENT

Office of the Governor Motor Vehicle Commission

Automotive Industry
(LAC 46:V.Chapters 1, 13, 15 and 18)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission finds it necessary to adopt paragraph B of §107 to further implement the provisions of R.S. 32:1268.2. In the country's current economic condition, manufacturers of motor vehicles and recreational products are filing for bankruptcy, discontinuing lines, and ceasing to do business at an alarming rate making it unlawful under state law for dealers to sell their new inventory. R. S. 32: 1268.2 was enacted by the legislature to allow previously franchised motor vehicle and recreational product dealers to continue to be licensed under circumstances where the manufacturer is in bankruptcy, is no longer in business, or has terminated a line. This Rule will allow the commission to license the terminated dealer to perform warranty work under an agreement with the manufacturer when a line has been terminated. This will assure the consuming public the availability of a dealer to perform warranty on a terminated vehicle.

The commission proposes to adopt §1307 to place in its Rules its previously adopted policy regarding offsite displays by manufacturers, distributors, factory and distributor branches and new motor vehicle dealer licensees. This regulation has been in effect since 2004 and makes no change that will affect those persons covered by the Rule.

The commission proposes to repeal provisions of its rules relating to recreational product shows and replace them with existing and new regulations and language to clarify the Rule.

Rules will be adopted to implement the provisions of R.S. 32:1256 with regard to recreational product shows. Chapter 18. Recreational Products Trade Show; Definitions, License Fees and Applications; Violations and Regulations will be repealed. Chapter 15. Recreational Product Shows is being adopted with language to clarify the rules and put into the rule customary procedures of the commission which will assist licensees in dealing with the regulatory scheme assigned the commission. This Rule will eliminate provisions for local and regional shows and provides for a recreational product show. The fee for the show, \$500, is the fee that has been charged for a regional show under repealed Chapter 18. The provisions for a non-resident exhibitor have not been included as the reference to non-resident exhibitors has been deleted from Title 32, Chapter 6. In addition only a licensee of the commission may offer for sale recreational products in this state. The provisions of former §1806 regarding offsite displays of marine products have been expanded to include all recreational products. A fee of \$200 is established to cover the cost to approve and inspect the offsite displays. The Rule clarifies the requirement for invitations and priority of those invitations to participate in the recreational product show. The amendment clarifies the

requirements for a licensee to participate in closed or open rallies.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 1. Motor Vehicle Commission

Chapter 1. General Requirements

§107. Manufacturer Termination of Franchise

Liquidation of New Vehicle Inventory; Warranty Work; Exception

A. - A.5 ...

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:

Chapter 13. New Motor Vehicle Auto Shows; Offsite Displays

§1307. Static Offsite Displays

A. The executive director must approve all offsite displays of motor 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, with a maximum of six vehicles per licensee, per display.

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).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 37:

Chapter 15. Recreational Product Shows

§1501. Authorization for Recreational Product Show

A. The commission may authorize or prohibit recreational product 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 37:

§1503. Definitions

Promoter—any person who alone or with others assumes the financial responsibility of a recreational product show in which recreational products are displayed by licensed dealers, manufacturers or distributors.

Rally—an event held and organized by recreational product clubs of specific product owners or manufacturers of specific products where owners of the specific products are members of the club and are invited to participate in the event.

Recreational Product Show—a controlled event in which a promoter charges or barter for booth space and/or charges spectator entrance in which 3 or more recreational product dealers exhibit vehicles.

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 37:

§1505. Promoter License Fee and Application

A. A promoter 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 \$100;

3. a promoter's license shall expire on December 31.

B. All applications to the commission for display permits not received within 30 days of that start of the trade show or exposition shall be charged a \$50 late processing fee.

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 37:

§1507. License Application for Recreational Product Show

A. The promoter of a 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 \$500;

3. the license shall be for the recreational product 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 37:

§1509. Recreational Product Show Requirements

A. The application must be submitted to the commission no less than 60 days prior to the opening date of the recreational product show.

B. Only licensed recreational product dealers whose area of responsibility includes the show site may display and conduct sales of recreational products at recreational product shows.

C. All licensed recreational product dealers within 30 miles of the recreational product show's location must be offered the opportunity to participate in the show.

D. Each respective manufacturer shall grant authority to the dealers participating in the recreational product show.

E. Not less than 30 days prior to the opening day of the recreational product show the commission must receive a list of all participating recreational product dealers together with the consent of each respective manufacturer.

F. Participation by a recreational product 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 37:

§1511. Invitations and Priority

The promoter shall contact and invite potential participants to a recreational products show as follows.

1. The promoter shall first contact all recreational product dealers who sell the type of vehicle to be displayed at the recreational product show whose location is within a 30 mile radius of the show. Only dealers whose area of responsibility includes the show site may display the particular make of recreational products sold by them.

2. The promoter may invite, but shall accept any request from a recreational product dealer, not excluded by Paragraph 1 of this Section, above, whose business is conducted beyond the 30 mile radius whose area of responsibility includes the show site.

3. If a recreational products trade show is being held in a location where a recreational product does not have a dealer whose area of responsibility includes the show's location it shall be the manufacturer's responsibility to determine which licensee will represent that manufacturer at the show. If the manufacturer has not assigned a dealer to represent their product at a show, then the dealer that is the closest proximity to the show location shall determine which dealer has the first right of refusal to participate in a show based upon the shortest land based route.

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

5. A recreational vehicle manufacturer or distributor may exhibit its recreational products at a show only through a recreational products dealer.

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 37:

§1513. Off-Site Expositions of Recreational Products

A. The executive director must approve all off-site expositions by licensed recreational products dealers. A request for an off-site exposition, accompanied by a fee of \$200, must be received and approved by the executive director ten days prior to the commencement of the exposition. Any application received after that date shall be charged a \$50 late fee.

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, with a maximum of 20 vehicles.

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).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Louisiana Motor Vehicle Commission, LR 37:

§1515. Licensee Participation in a Rally

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 §1513 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.

Chapter 18. Recreational Products Trade Show; Definitions, License Fees and Applications; Violations and Regulation

§1801. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 783(F)(7).

HISTORICAL NOTE: Promulgated by the office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:435 (March 2008), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1525 (August 2009), repealed LR 37:

§1802. License Fees and Applications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission LR 34:436 (March 2008), repromulgated by the Office of the

Governor, Motor Vehicle Commission, LR 35:1526 (August 2009), repealed LR 37:

§1803. Order of Preference and Priority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 783 (F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:436 (March 2008), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1526 (August 2009), repealed 37:

§1804. Violations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:436 (March 2008), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1526 (August 2009), repealed LR 37:

§1805. Miscellaneous Provisions; Enforcement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(F)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:437 (March 2008), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1527 (August 2009), repealed LR 37:

§1806. Off-Site Displays—Marine Products

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 34:437 (March 2008), repromulgated by the Office of the Governor, Motor Vehicle Commission, LR 35:1527 (August 2009), repealed LR 37:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? The proposed Rule should have a positive effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? The proposed Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This proposed Rule will not affect the behavior or personal responsibility of children.

6. What effect will this have on the ability of the family or local government to perform the function as contained in this proposed Rule? This proposed Rule is designed to help the family to obtain the information and help needed to own their own automobile.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with

health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Any person may submit data, views or positions, orally or in writing to the Louisiana Motor Vehicle Commission, 3519 12th Street, Metairie, LA 70002 or by telephoning at 504-838-5207 and facsimile 504-838-5416.

Lessie A. House
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Automotive Industry

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No implementation costs or savings to state or local governmental units is anticipated as a result of the proposed rules. The proposal eliminates Chapter 18 and establishes a new chapter 15. Chapter 18 provided separate rules and a different fee amount for local versus regional recreational product shows. Chapter 15 provides one rule that covers all recreational product shows. The proposal deletes provisions regarding non-resident exhibitor, and limits the sale of recreational products in the state to businesses that are licensed by the Louisiana Motor Vehicle commission. The provision regarding offsite displays that currently apply to marine products is being expanded to include all recreation products, and includes to establishment of a \$200 inspection and application fee. The proposed rule will also allow the commission to license a dealer to perform warranty work under an agreement with the manufacturer when a product line has been terminated, to assure the availability of a dealer to perform warranty work on a terminated product line. The proposed rule codifies existing practices regarding new motor vehicle auto show offsite displays.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule is anticipated to result in a \$7,000 annual increase in self-generated revenues. No increase in local government revenues is anticipated. A \$3,000 increase is anticipated to result from a \$400 fee increase for businesses that previously participated in a local recreational products show, and a \$4,000 increase is anticipated to result from a \$200 fee for inspection of offsite displays.

The proposed rule increases the fee for businesses that previously participated in a local recreational production show from \$200 per show to \$500 per show. Approximately 10 businesses annually participate in local recreational product shows. The commission has collected no revenue from regional shows.

The commission is anticipated to inspect 20 offsite displays annually at a cost of \$200 per display.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the proposed rule, the fee to participate in a recreational products show is \$500 per show. The new fee is the same as the amount currently required for participation in a regional show, and \$300 more than the existing fee of \$200 for participation in a local recreational product show. The Louisiana Motor Vehicle Commission has had no applications

for regional recreational production shows. All shows held in the past were classified as a local show.

Businesses utilizing offsite displays will be assessed a new fee of \$200 for inspection of such displays.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule will have no effect on competition and employment.

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Legislative Fiscal Officer
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