NOTICE OF INTENT

LOUISIANA USED MOTOR VEHICLE COMMISSION
OFFICE OF THE GOVERNOR

CHAPTER 27 TITLE 46 SECTION 2701 ET SEQ

PROPOSED RULES TO IMPLEMENT
RECENT LEGISLATIVE CHANGES

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, LSA- R.S. 49:950 et seq., and through the authority granted in LSA- R.S. 32:783(E), that the Louisiana Used Motor Vehicle Commission proposes to amend Chapter 27 of Title 26 in order to implement recent amendments made in the 2007 and 2009 Legislative Sessions.

Specifically, the proposed changes will eliminate the Buyer's Identification Card requirements as repealed and amended by Act 257 of the 2007 Legislative Session, and the changes will implement the transfer of the licensing and regulation of recreational products to the Louisiana Motor Vehicle Commission. The rule change will provide for the new name of the commission in which it will be changed from the Recreational and Used Motor Vehicle Commission to the Used Motor Vehicle Commission. This proposed Rule has no known impact economic or fiscal impact. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

# Title 46
# PROFESSIONAL AND OCCUPATIONAL STANDARDS
## Part V. Automotive Industry
## Subpart 2. ~~Recreational and~~ Used Motor Vehicles

### Chapter 27. The ~~Recreational and~~ Used Motor Vehicle Commission

#### §2701. Meetings of the Commission

A. The Commission shall meet monthly at its office in Baton Rouge, Louisiana, at a date and time to be fixed by the Commission. ~~on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 9 a.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.~~

B. Special Meetings. Special meetings shall be held upon call of the chairman by notice given to the members of the commission at least 48 hours prior to the time the meeting is to be held; such notice to be given by telephone, telegraph or letter.

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes. Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

#### §2703. Quorum of the Commission

A. The quorum of the Commission shall be established in accordance with those set for public bodies, LSA- R.S. 42:4.2(A)(3), as a majority of total membership. ~~Eight members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.~~

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

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

#### §2705. Executive Director

A. The Executive Director of the Louisiana ~~Recreational and~~ Used Motor Vehicle Commission shall be in charge of the commission's office and shall conduct and direct the activities thereof in the manner as directed by the commission. The employees of the commission shall report to the executive director.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

#### §2707. Correspondence with the Commission

A. All correspondence by letter with the commission shall be addressed to the attention of the executive director.

B. Louisiana ~~Recreational and~~ Used Motor Vehicle Commission forms, applications and dealer aids are recognized as the commission official forms for licensing and communication.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

#### §2709. Official Seal

A. The official seal of the Louisiana ~~Recreational and~~ Used Motor Vehicle Commission shall be as follows. The outline of the state of Louisiana with a small star denoting the approximate location of Baton Rouge, which name appears to the left of the star. It shall be bordered by the inscription, Louisiana ~~Recreational and~~ Used Motor Vehicle Commission.

thereof to all license certificates issued by the Louisiana ~~Recreational and~~ Used Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

# Chapter 28. Definitions

### §2801. Definitions

A. The word *person* as used herein shall mean any natural or juridical person, firm, association, corporation, trust partnership, limited liability company or any other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

# Chapter 29. Licenses to be Issued by the ~~Recreational and~~ Used Motor Vehicle Commission

### §2901. Dealers to be Licensed

A. Dealers in used motor vehicles and other types used vehicles subject to Certificate of Title Law under Title 32 and/or Vehicle Registration License Tax under Title 47.

B. Automotive dismantlers and parts recyclers, motor vehicle crushers, and dealers in used parts and accessories.

C. Used motor vehicle auctions and salvage pools are considered used motor vehicle dealers and must comply with licensing regulations contained herein.

~~D. Dealers, manufacturers, and distributors of new recreational products as defined at R.S. 32:781(22).~~

E. Brokers of used motor vehicles, used parts, ~~and recreational products~~ are considered to be dealers and must comply with licensing regulations contained therein.

F. Any person who rents or who sells on a rent with option to purchase program used motor vehicles not of the current or immediate prior year or new and used recreational products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007).

### §2903. Dealer Licenses

A. The dealer license will be issued in the legal name of the person as identified on the application for dealer license.

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business.

C. Used motor vehicle dealers will be assigned a license number to be prefixed with a "UD" designation.

D. Automotive dismantlers and parts recyclers will be assigned a license number to be prefixed with a "AD" designation.

E. Crushers will be assigned a license number to be prefixed with a "CS" designation.

F. Dealers in used parts and accessories will be assigned a license number to be prefixed with a "UP" designation.

~~G. Beginning with licenses to be issued for 2008, dealers, manufacturers and distributors of recreational products will be assigned a license number to prefixed as follows:~~

~~1. Motorcycle and ATV Dealers — MA~~

~~2. Marine Products Dealers — MP~~

~~3. Recreational Vehicles Dealers — RV~~

~~4. Utility Trailer Dealers — UT~~

~~5. Manufacturers — MS~~

~~6. Distributors — DT~~

H. Beginning with licenses to be issued for 2008, dealers who rent or who sell on a rent with option to purchase program will be assigned a license number to be prefixed with a "RD" number.

I. Each said license shall stand on its own, and for each said license, the dealer shall pay a separate licensing fee.

J. The valid dealer's license permits the dealer to transfer and assign titles, purchase and sell used motor vehicles without paying Louisiana general sales tax.

K. A dealer who has multiple locations will be allowed from his salesman's license to sell at all locations owned by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1634 (August 2007).

### §2904. Additional Licensing, Requirements for the Automotive Dismantler and Parts Recycler and Used Parts and Accessories Dealers

A. Every automotive dismantler and recycler issued an automotive dismantler's license and number will be permitted to purchase and sell salvage vehicles and transfer motor vehicle titles for the purpose of dismantling and selling the parts thereof to include the salvaged vehicle with title.

B. An automotive dismantler and parts recycler may offer a rebuilt, wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycle must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of $20,000.

C. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in R.S. 781(33).

D. Used parts and accessories are broadly defined as any item removed from a used motor vehicle for the purpose of resale, except used batteries, wheel covers and hubcaps, and tires. Used parts and accessories do not include rebuilt or remanufactured parts and accessories.

E. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S.32:802(A).

F. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in R.S. 32:802.

G. A surety bond will not be required for dealers whose principal business is selling used parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:802.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), promulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1634 (August 2007).

### §2905. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, will base its determinations upon the following factors.

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers, except those who deal solely with trailers, are required to keep in force a garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004), LR 33:1635 (August 2007).

### §2907. Established Place of Business

A. An established place of business shall mean a permanently enclosed building or structure either owned in fee, leased or rented, which meets local zoning or the municipal requirements, and regularly occupied by a person, firm or corporation, easily accessible to the public at which a regular business of selling used motor vehicles will be carried on in good faith; and, at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business; and, shall not mean tents, temporary stands, lots, or other temporary quarters.

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007).

# Chapter 31. License for Salesman

## §3101. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a salesman license, will base its determinations upon the following factors.

1. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business.

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesmen's licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesman's license shall consist of an identification card bearing the name, address, name of employer, date, signature of the executive director, salesman's license number prefixed with SM, followed by an electronic number. The card shall be carried upon his person at all times when acting as a salesman at license location.

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the ~~Recreational and~~ Used Motor Vehicle Commission within 10 days.

D. A salesman may not hold more than one salesman's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesman's license, with the exception that the licensed dealer has more than one location. The licensed dealer and licensed salesman may sell on each location properly licensed as additional locations, provided the additional locations are in the same name as the principal location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781(33).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007).

# ~~Chapter 35. Buyer Identification Card~~

## ~~§3501. Buyer Identification Card Required~~

~~A. Sales at a salvage pool, salvage disposal sale, or through an insurance company shall be opened only to persons possessing a buyer's identification card to buy at a salvage pool, salvage disposal sale, or through an insurance company.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.~~

~~HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989).~~

## ~~§3503. Qualifications and Eligibility for Buyer Identification Card~~

~~A. The commission, in determining the qualifications and eligibility of an applicant for a buyer's identification card, will base its determinations upon the following factors.~~

~~1. Identification cards to bid or buy at salvage pools, salvage disposal sales, or through insurance companies shall be available to any person, business, or corporation, or licensed employee thereof, possessing a valid used car dealer's license, a valid auto recycler's license, or a valid auto dismantler's license. Any one of these dealers' licenses may originate in or out of the state of Louisiana.~~

~~2. Completion of Official Recreational and Used Motor Vehicle Commission Application Forms. Payment of Louisiana state general sales tax is due on all vehicles purchased at a salvage pool or salvage disposal sale and applicant must certify that applicant will faithfully adhere to this requirement.~~

~~B. The buyer's identification card shall include the name, address, driver's license number, any one of the aforementioned dealers' license numbers, physical description, and signature of the applicant and the name and address of the employer of the applicant. The buyer's identification number to be prefixed with BI, followed by an electronic number. Cards obtained for the buyers will be $25 each for Louisiana resident and $200 each for out-of-state resident. Out-of-state buyers must provide proof that they are a licensed used motor vehicle dealer, auto recycler, auto dismantler or employee thereof. A duplicate identification card will be issued to all buyers that will consist of individual's name, driver's license number, Social Security number, dealership name, dealer number, salesman number, photograph and the individual's signature. This card must be carried with the individual and produced on demand while conducting the business for which this license has been issued. Applicants may provide a copy of the license. However, if the commission has reasonable cause to suspect that the copy is forgery or inaccurate, then the commission may require the applicant to produce a certified copy of the license.~~

~~C. The buyer's identification card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale, representative of the commission or any identifiable law enforcement agent of the state, city or municipality. The buyer's identification card is not transferable or assignable. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.~~

~~1. Each buyer's identification cardholder may be accompanied to any salvage pool or salvage disposal sale by a mechanic or other technical expert of his choice, prior to the actual sale. At the time of the actual bidding, only valid bid cardholders shall be present.~~

~~2. A technical expert is one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience, regarding a subject matter about which persons having no particular training are incapable of forming an accurate opinion or making a correct deduction.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 32:808.~~

~~HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007).~~

# Chapter 37. Changes to be Reported to Commission

## §3701. Changes to be Reported to Commission and Fee Assessment

A. Any changes of address, ownership or employment by a dealer shall be reported to the commission within 10 days of the change. A picture of the new location must be sent with notification. A fee of $100 will be charged each time a dealer changes his business location.

B. The dealer will notify the commission when a salesman's employment is terminated by returning the salesman's certificate as set out in Chapter 31.

C. Each salesman shall surrender his identification card to the commission and obtain a new license for the new location before again engaging in the business as a salesman for another used motor vehicle dealer.

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within 30 days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4)(g).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 18:1117 (October 1992).

# Chapter 39. Business Transactions

## §3901. Register of Business Transactions

A. Every used motor vehicle dealer and automotive dismantler and parts recycler shall keep a register and/or records of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such records shall include all titles, bills of sale, temporary tag books, monthly sales reports, consignment agreements, and inventory and parts records. A salvage pool or salvage disposal sale must maintain a register of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such registers shall include all titles. The salvage pool or salvage disposal sale may maintain its records electronically.

B. Such registers and/or records shall be made available for inspection by the Used Motor Vehicle and Parts Commission representatives or identified law enforcement officers of the state, parish and municipality where the business of the used motor vehicle dealer, automotive dismantler and parts recyclers, salvage pool or salvage disposal sale is located, during reasonable business hours or business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:757.A-B.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002).

# Chapter 43. License Renewal

## §4301. Period for Renewals

A. Applications should be submitted by November 1 of each year. If applications have not been made for renewal of existing licenses, such licenses shall expire December 31 and it shall be illegal for any person to represent himself as a dealer thereafter. The commission shall issue all new licenses by January 10 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985).

# Chapter 44. Educational Seminar

### §4401. Required Attendance

A. On or after January 1, 2005, every applicant for a license issued by the ~~Recreational and~~ Used Motor Vehicle Commission except those excluded by statute must attend a four-hour educational seminar approved and conducted by the ~~Recreational and~~ Used Motor Vehicle Commission.

1. The seminar will be conducted by employees of the ~~Recreational and~~ Used Motor Vehicle Commission and will be held at such place to be determined by the commission upon reasonable notice.

2. The seminar will be held once a month on a date and at a time to be determined by the commission upon reasonable notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007).

### §4403. Certification

A. Upon applying for a license from the commission, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk or other responsible representative of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name, name and address of the dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802 (D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007).

### §4405. Educational Program

A. The educational seminar will consist of information pertaining to the ~~Recreational and~~ Used Motor Vehicle Commission, Department of Revenue, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LRUMVC—background of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, and non-delivery of titles;

2. LMVC—finance licenses;

3. Revenue—submission of monthly sales reports and collection of taxes;

4. Office of Motor Vehicles—non-delivery of titles, certificates of title and completion of titles by dealers;

5. Wildlife and Fisheries—registration of marine products;

6. Office of Attorney General—civil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007).

# Chapter 45. Complaints

### §4501. Complaints

A. All forms of complaints made to the commission must be made on the complaint form provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004).

# Chapter 47. Procedure for Adjudications before the ~~Recreational and~~ Used Vehicle Commission

### §4701. Hearing Officer

A. Designation and Appointment

1. The positions of the executive director and the Administrative Manager III shall have the powers of the hearing officer, unless as otherwise designated by the chairman.

2. In the absence of the executive director or the Administrative Manager III, the chairman shall designate the hearing officer.

B. Power and duties:

1. may be designated by the chairman to conduct hearings;

2. shall prepare and issue all notices for any hearings;

3. shall consider all relevant evidence in a request for an interlocutory cease and desist order and shall issue that order on the basis of the evidence presented;

4. shall set for hearing all rules to show cause why a cease and desist order should not be issued;

5. shall issue and enforce subpoenas in accordance with R.S. 32:785;

6. shall render rulings on preliminary matters, such as requests for continuances, requests for recusals, requests for subpoenas, other motions or objections and discovery disputes;

7. shall conduct and make rulings with regard to compliance hearings held in accordance with R.S. 49:961(C);

8. shall consult with the field investigators with regard to the calling of witnesses;

9. shall consult with the field investigators with regard to preparing exhibits for introduction at the hearing;

10. shall assist with the preparation of the findings of fact and conclusions of law and the judgment of the commission, including the delivery or service thereof;

11. shall assist with the preparation of the post-hearing record for any appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1221 (July 2006), amended LR 33:1637 (August 2007).

### §4703. Hearing Chairman

A. The chairman of the commission shall designate the commissioner who shall serve as the hearing chairman.

B. Authority and duties:

1. may review and rule on preliminary matters prior to the adjudication;

2. shall preside over adjudications held before the commission and shall conduct them accordingly;

3. may administer oaths to witnesses;

4. shall make findings and/or rulings with regard to evidentiary matters presented during the course of the hearing;

5. shall only vote to resolve a split decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1221 (July 2006).

### §4705. Hearing Committee

A. The chairman of the commission shall designate the commissioners who shall serve as the hearing committee.

B. The hearing committee shall consist of a chairman and two other members.

C. The hearing committee shall hear adjudications as selected by the chairman to be heard in accordance with R.S. 49:957.

D. The hearing committee shall issue proposed findings of fact and conclusions of law for presentation to the commission for a final order or judgment.

E. Prior to the presentation of the proposed order to the commission, the proposed order shall be served on the party against whom the order is to be entered at least 15 days prior to the commission's consideration.

F. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days following receipt of the proposed order, or the affected party may present an oral response at the meeting of the commission where the proposed order will be presented.

G. Parties may waive the requirements of this paragraph by written stipulation, and the commission, in the event there is no contest, may eliminate compliance with this paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006).

### §4707. General Provisions on Hearings

A. Notice of Hearing. The notice of hearing shall comply with the requirements of R.S. 32:785(C) and R.S. 49:955.

B. Service of Notice. The notice of hearing shall be served:

1. by a field investigator on the licensee either personally or at its place of business on the licensee's employee (if service is made in this manner, the field investigator shall sign the acknowledgment of service); or

2. through the office by certified or registered mail (the return receipt shall serve as acknowledgment of service).

C. Discovery. The Louisiana Code of Civil Procedure, Articles 1420 et seq., shall apply to all requests of discovery. Discovery shall be timely and give a reasonable opportunity to respond.

D. Preliminary Motions and Exceptions. No preliminary motions or exceptions shall be considered by the commission unless filed five days prior to the hearing.

E. Subpoenas

1. Subpoenas shall be issued in accordance with R.S. 32:785(C)(3).

2. Subpoenas may be issued for the purpose of assisting in the investigation of any violation or dispute which is before the commission.

3. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission and/or for the production of evidence of records of any kinds shall be issued by the hearing officer.

4. Subpoenas shall be served by a field investigator either personally on the witness or at the witness's place of

business or abode or by certified mail or registered mail. A return shall be placed in the record designating the manner and date of service as well as the oath the person making the service.

5. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party has filed a list of names and addresses with the hearing officer at least 10 days prior to the date that the testimony expected to be taken.

6. The party requesting the issuance of a subpoena shall deposit with the hearing officer a sum consistent with R.S. 13:3661(B) to cover the costs of the issuance of the subpoena.

F. Conduct and Order of the Hearing

1. The chairman of the hearing committee shall preside over the conduct of the hearing and may set a reasonable time for the presentation of a matter depending on the nature of the case and the complexity of the issues.

2. The chairman may in his discretion sequester witnesses.

3. The chairman shall make rulings on evidentiary matters keeping in mind that the commission shall not be bound by the technical rules of the evidence and may admit material and relevant evidence. The principles underlying the Louisiana Code of Evidence shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission.

4. The hearing shall begin with any stipulation as to the facts or issues.

5. Witness Examination

a. Witnesses shall be first examined by the presenting attorney or by the hearing officer.

b. Examination shall then be followed by the commissioners.

c. Thereafter, examination may be performed by the licensee or its counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007).

### §4709. Hearings on Application Appeals

A. Any person whose application for license has been denied in accordance with R.S. 32:785(A)(1) shall be provided written notice by certified or registered mail that the application has been denied, the grounds for which the application has been denied and that the applicant has the right to appeal to the commission by making a written request for the appeal within 30 days following the receipt of the denial. No appeals will be considered beyond 30 days from receipt of the denial.

B. Based on the applicant's written request, the hearing officer will assign the appeal to be heard at the next available commission meeting. Notice of the appeal before the commission shall be served on the applicant at least five days prior to the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007).

### §4710. Hearings on Cease and Desist Orders

A. A rule to show cause why a cease and desist order should not be issued shall be made in accordance with R.S.786(D)(1), and the notice shall be provided at least 10 days prior to the hearing either by certified or registered mail or by actual service made by a field investigator.

B. An interlocutory cease and desist order shall only be issued by the hearing officer based on the request of a consumer, licensed dealer or licensed manufacturer.

C. On a request for an interlocutory cease and desist order made pursuant to R.S. 32:786(D)(1), the hearing officer shall issue the order based on the evidence and information submitted by the party, and should the evidence fail to provide the grounds as required in R.S. 32:786(D)(1)(a) through (d), the interlocutory cease and desist order shall be denied and converted to a rule to show cause why a cease and desist order should not be issued.

D. Should the interlocutory cease and desist order be signed and issued, the hearing officer may require that the requesting party issue a bond in an amount commensurate with the activity sought to be enjoined.

E. The interlocutory cease and desist order shall notify the party against whom the order is issued that the order will remain in effect until the next available commission meeting date.

F. An interlocutory cease and desist order shall be noticed for hearing in which the commission shall consider whether to vacate the order or incorporate the order into a final commission order. Said notice shall be served on all parties at least five days prior to the hearing.

G. In accordance with R.S. 32:786(D)(2), the interlocutory cease and desist order shall notify the party against whom the order is issued of its right to appeal the order to the commission and that said appeal shall be heard at the next available commission meeting date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007).

## Family Impact Statement

1. What effect will this rule have on the stability of the family?

   The proposed rule will not affect 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 not affect the functioning of the family.

4. What effect will this have on family earnings and family budget?

   This 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 rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule?

   No, the action proposed is strictly a state enforcement function.