

**ADOPTED REGULATION OF THE DIRECTOR OF
THE DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R011-08

Effective June 17, 2008

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-10, NRS 482.160 and 482.216.

A REGULATION relating to motor vehicles; establishing a program pursuant to which new vehicle dealers may accept applications for registration and transfer of registration of new motor vehicles and issue certificates of registration; requiring a new vehicle dealer who participates in the program to obtain a surety bond or place a deposit with the Department of Motor Vehicles; setting forth grounds for terminating a new vehicle dealer from participating in the program; and providing other matters properly relating thereto.

Section 1. Chapter 482 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 10, inclusive, of this regulation, unless the context otherwise requires, “new vehicle dealer” has the meaning ascribed to it in NRS 482.078.*

Sec. 3. *The Department hereby establishes a program to carry out the provisions of NRS 482.216, pursuant to which the Department may, without limitation, authorize a new vehicle dealer to accept applications for registration and transfer of registration of new motor vehicles and to issue certificates of registration.*

Sec. 4. *1. To be eligible to participate in the program, a new vehicle dealer must:*
(a) Have been continuously licensed by the Department as a new vehicle dealer for not less than 1 year immediately preceding the date of application;

(b) Not have had a license to engage in an occupation or business that is regulated by the Department revoked;

(c) Have satisfactorily conducted business as a new vehicle dealer in accordance with the provisions of chapter 482 of NRS for not less than 1 year immediately preceding the date of application;

(d) Not have knowingly issued a check to the Department that was returned for insufficient money or credit within 1 year immediately preceding the date of application; and

(e) Not have committed:

(1) A violation of any provision of the Nevada Revised Statutes or Nevada Administrative Code that resulted in the imposition of an administrative fine by the Department or the suspension of a license to engage in an occupation or business that is regulated by the Department within 1 year immediately preceding the submission of the application; or

(2) Two or more violations of any provision of the Nevada Revised Statutes or Nevada Administrative Code that resulted in the imposition of administrative fines by the Department or the suspensions of such a license by the Department within the 3 years immediately preceding the submission of the application.

2. The Department may deny an application of a new vehicle dealer to participate in the program if the new vehicle dealer is owned in whole or in part by, or employs, any person who has been convicted of or pleaded nolo contendere to:

(a) A felony or gross misdemeanor; or

(b) A misdemeanor in violation of the provisions of this chapter or chapter 482 of NRS, within the 4 years immediately preceding the date of application.

3. For the purposes of this section, the issuance by the Department of a cease and desist order or an order to cease from further action to a new vehicle dealer is not a ground to deny the application of a new vehicle dealer to participate in the program.

Sec. 5. *A new vehicle dealer who wishes to participate in the program must:*

- 1. Submit an application to the Department on a form provided by the Department; and*
- 2. Provide any additional information the Department may require to evaluate the application.*

Sec. 6. *1. Except as otherwise provided in subsection 2, before a new vehicle dealer who has been chosen to participate in the program may issue a certificate of registration for a motor vehicle, the new vehicle dealer must obtain and file with the Department a good and sufficient surety bond in the amount of \$10,000. Each surety bond must:*

- (a) Have a corporate surety thereon that is licensed to do business in this State;*
- (b) Be approved as to form by the Attorney General; and*
- (c) Be subject to the condition that the new vehicle dealer conduct business without fraud or fraudulent representation and without violating any of the provisions of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS.*

2. In lieu of filing a surety bond, a new vehicle dealer may place on deposit with the Department an amount equal to \$10,000 in the form of:

- (a) Cash;*
- (b) A bond issued by the United States; or*
- (c) A savings certificate.*

3. A deposit placed with the Department pursuant to subsection 2 must be:

(a) Subject to the condition that the new vehicle dealer conduct business without fraud or fraudulent representation and without violating any of the provisions of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS; and

(b) Available for withdrawal only upon the order of the Department.

4. The undertaking in the surety bond or deposit must include, without limitation, any fraud or fraudulent act or representation, or any violation of any provision of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS, by any owner, principal, employee or agent of the new vehicle dealer.

5. The Department will require an increase in the amount of the surety bond or deposit if the Department determines that an increase is necessary and in the public interest. The increase in the amount of the surety bond or deposit will not exceed twice the amount of the original surety bond or deposit.

6. The surety bond or deposit must provide that any person, including, without limitation, the Department, injured by an action of the new vehicle dealer or an employee or agent of the dealer, in violation of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS, may bring an action on the surety bond.

7. Any money received by the Department pursuant to this section will be deposited with the State Treasurer for credit to the Motor Vehicle Fund.

Sec. 7. 1. *Liability under a surety bond which is filed or a deposit which is made with the Department pursuant to section 6 of this regulation will be in an amount prescribed by the Department.*

2. The Department will suspend or revoke the authority of a new vehicle dealer to participate in the program if:

(a) The amount of the surety bond filed or the deposit made is reduced to an amount that is less than the amount required by the Department pursuant to section 6 of this regulation;

(b) There is an outstanding judgment resulting from the sale, transfer of interest or registration of a vehicle for which the new vehicle dealer is liable;

(c) The new vehicle dealer violates any provision of NRS 482.352; or

(d) The Department determines that the suspension or revocation is in the best interest of the public.

3. A new vehicle dealer whose participation in the program is suspended pursuant to subsection 2 will be reinstated if the new vehicle dealer:

(a) Files an additional surety bond pursuant to section 6 of this regulation;

(b) Restores the deposit to its original amount;

(c) Satisfies the outstanding judgment for which he is liable; or

(d) Takes all other action required by the Department.

4. A new vehicle dealer whose participation in the program is revoked pursuant to subsection 2 may not be reinstated for 1 year after the date of revocation.

Sec. 8. *A surety bond which is filed or a deposit which is made with the Department pursuant to section 6 of this regulation may be:*

1. Disbursed by the Director, for good cause shown and after notice and hearing, in an amount determined by the Director to compensate a person injured by an action of a new vehicle dealer, or an employee or agent of the new vehicle dealer.

2. Released by the Director upon receipt by the Department of a statement that:

(a) Is signed by a person under whose name the surety bond or deposit is made;

(b) Is acknowledged before any person authorized to take acknowledgments in this State;

(c) Requests the Director to release the surety bond or deposit, or a specified portion thereof; and

(d) Sets forth the purpose for which the release of the surety bond or deposit is requested.

3. Refunded by the Director:

(a) One year after the date on which the participation of the new vehicle dealer in the program terminates, if the Director determines that there are no outstanding claims against the surety bond or deposit; or

(b) Pursuant to an order of a court of competent jurisdiction.

Sec. 9. *A new vehicle dealer who participates in the program:*

1. Shall:

(a) Maintain the records relating to the program for a period of not less than 3 years.

(b) Authorize the Department or any person designated by the Department to conduct audits of the records relating to the program:

(1) Within 3 months after the new vehicle dealer begins issuing certificates of registration;

(2) At least once every 12 months after completion of the initial audit; and

(3) At any other time requested by the Department.

(c) Establish and maintain a separate account in a financial institution in this State for depositing the money collected for the issuance of certificates of registration. The money in the account must not be used to pay any expenses of the new vehicle dealer participating in the program.

(d) Pay to the Department, at an office designated by the Department or in an account designated by the Department, the amount of money collected for the issuance of certificates of registration:

(1) Not less than once each week; or

(2) If \$10,000 or more is collected by the new vehicle dealer during 1 day, not later than the end of the next business day.

(e) Maintain and restrict access to a secure area on the premises of the new vehicle dealer for the storage of documents, forms and other supplies provided by the Department for the program.

2. Shall not:

(a) Issue a certificate of registration for a motor vehicle:

(1) For which an exemption from the governmental services tax set forth in NRS 371.103 or 371.104 is claimed; or

(2) That includes a change of name.

(b) Employ a person to issue a certificate of registration for a motor vehicle who has not completed a course of training provided by the Department and received a certificate of completion for the course from the Department.

(c) Use or authorize an employee to use:

(1) False, deceptive or misleading advertising to induce a person to register with the new vehicle dealer a motor vehicle purchased from the new vehicle dealer; or

(2) The name of the Department or the State Seal in any advertisement for the sale or registration of a vehicle, unless authorized by the Department.

Sec. 10. *The Department may terminate the participation of a new vehicle dealer in the program. The grounds for termination include, without limitation:*

- 1. The failure of the new vehicle dealer to engage in the business of a dealer;*
- 2. The failure of the new vehicle dealer to comply with the applicable provisions of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS;*
- 3. The failure of the new vehicle dealer to maintain the surety bond or deposit required by section 6 of this regulation;*
- 4. The receipt by the Department of complaints against the new vehicle dealer; and*
- 5. The imposition of any administrative fine or the taking of any other administrative action against the new vehicle dealer by the Department for a violation of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS.*

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R011-08

The Department of Motor Vehicles adopted regulations assigned LCB File No. R011-08 which pertain to chapter 482 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 482:

- 1. A description of how public comment was solicited, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Motor Vehicles noticed and held public workshops and hearings in Carson City with videoconferencing to Las Vegas on April 7 & 8, 2008. The notice of public workshops and hearings and complete copies of the proposed regulations were posted on March 5, 2008, at the Nevada State Library and Archives and each office of the Department of Motor Vehicles. In counties where the Department does not maintain an office, the notice was posted at the main office of the public library. The purpose of the workshops and hearings were to solicit comments and opinion on proposed regulation changes relating to business licensing and the dealer registration program.

- 2. The number of persons who:**
(a) Attended each hearing; Carson City = 4, Las Vegas = 1
(b) Testified at each hearing; and Carson City = 1, Las Vegas = 0
(c) Submitted to the agency written statements: No written comments were received by the Department.

- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

In addition to the public notice, the Department sent copies of the notice and proposed regulations to the associations related to the businesses affected for distribution to their members. Comments from interested businesses included John Sande IV of the Nevada Franchised Auto Dealer's Association. Testimony provided at the hearing was in general support of the changes as long as participation in the dealer registration program was not mandatory.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No definitive changes were requested by the affected businesses or associations.

- 5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:**
- (a) Both adverse and beneficial effects; and**
 - (b) Both immediate and long-term effects.**

There is no economic effect of the regulation on the businesses regulated or the public.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of this regulation.

- 7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The amendments to the regulation do not overlap that of any other state, local, or federal governmental agency.

- 8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The amendments do not include provisions which are more stringent than a federal regulation.

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not provide or involve a new fee, and hence since no fee is involved, there is not a total amount expected to be collected or used.