

LCB File No. R011-08

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

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

AUTHORITY: NRS 482.160, NRS 482.216, NRS 482.293, NRS 482.3163, NRS 482.325, NRS 482.333, NRS 482.362, NRS 482.363

Sec. 3. Chapter 482 of NAC is hereby amended by adding thereto the provisions set forth as sections 4 to 13, inclusive, of this regulation.

Sec. 4. *As used in sections 4 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 5. *“Program” means the program described in NRS 482.216.*

Sec. 6. *“Vehicle dealer” has the meaning ascribed to it in NRS 482.020.*

Sec. 7. 1. *To be eligible to participate in the program, a vehicle dealer must:*

(a) Have been continuously licensed by the department as a 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 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 NRS or NAC 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) A subsequent violation of any provision of NRS or NAC that resulted in the imposition of an additional administrative fine by the department or the suspension 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 vehicle dealer to participate in the program if the 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 vehicle dealer is not a ground to deny the application of a vehicle dealer to participate in the program.

Sec. 8. *A 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. 9. 1. *Except as otherwise provided in subsection 2, before a vehicle dealer who has been chosen to participate in the program may issue or renew a certificate of registration for a*

motor vehicle, the vehicle dealer shall obtain and file with the department a good and sufficient surety bond in the amount of \$10,000 subject to the condition that the 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. Each bond must have a corporate surety thereon that is licensed to do business in this state and must be approved as to form by the attorney general.

2. In lieu of filing a surety bond, a 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 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 department will require an increase in the amount of the bond or deposit if the department deems it to be necessary and in the public interest. The increase in the amount of the bond must not exceed twice the amount of the original bond.

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

6. The bond or deposit must provide that any person, including the department, injured by an action of the 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 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. 10. 1. *Liability under a bond which is filed or a deposit which is made with the department pursuant to section 9 of this regulation will be in an amount prescribed by the department.*

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

(a) The amount of the bond filed or the deposit made is reduced to an amount that is less than the amount required by the department pursuant to section 9 of this regulation;

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

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

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

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

(a) Files an additional bond pursuant to section 9 of this regulation;

(b) Restores the deposit to its original amount;

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

(d) Takes any other action required by the department.

4. A 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. 11. *A surety bond which is filed or a deposit which is made with the department pursuant to section 9 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 the vehicle dealer or an employee or agent of the 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 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 bond or deposit, or a specified portion thereof; and

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

3. Refunded by the director:

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

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

Sec. 12. *During the period of participation in the program, a vehicle dealer:*

1. Shall:

(a) Maintain the records relating to the program for a period of 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 vehicle dealer begins issuing and renewing certificates of registration;

(2) At least once every 12 months after the 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 and renewal of certificates of registration. The money in the account must not be used to pay any expenses of the vehicle dealer.

(d) Deposit the money collected in an account designated by the department or at an office designated by the department:

(1) Not less than once each week; or

(2) If \$10,000 or more is collected by the vehicle dealer in a 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 vehicle dealer used for the storage of documents, forms and other supplies provided by the department for the program.

2. Shall not:

(a) Issue or renew 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 or renew 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 his motor vehicle purchased from the 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. 13. *The department may terminate the participation of a vehicle dealer in the program. The grounds for termination include, without limitation:*

- 1. The failure of the vehicle dealer to engage in the business of a dealer;*
- 2. The failure of the 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 vehicle dealer to maintain the bond or deposit required by section 9 of this regulation; and*
- 4. A violation of any provision of the contract required by section 8 of this regulation.*
- 5. The number and types of complaints received against a vehicle dealer by the Department; and*
- 6. Any administrative fines or other actions imposed upon the vehicle dealer by the Department for violations of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS.*