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Jay D. Hartz
Director

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MEMORANDUM

TO: Interim Joint Committee on Transportation
FROM: Jay D. Hartz, LRC Director *JDH*
SUBJECT: Administrative Regulations
DATE: October 6, 2021

At its September 14, 2021, meeting, the Administrative Regulation Review Subcommittee completed its review of the following administrative regulations: 605 KAR 001:030; 605 KAR 001:035 and 605 KAR 001:215

Pursuant to the provisions of KRS Chapter 13A, these regulations have been assigned to the Interim Joint Committee on Transportation. Pursuant to KRS Chapter 13A, the committee has ninety (90) days from the date of this assignment to review these regulations.

The Subcommittee minutes will be delivered to your committee staff upon completion. The material considered by the Subcommittee in its review is attached to the appropriate administrative regulations.

cc: Administrative Regulation Review Subcommittee
John Snyder

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MEMORANDUM

TO: Senator Robert Stivers, President of the Senate
Representative David Osborne, Speaker of the House
Members of the Legislative Research Commission

FROM: Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
Administrative Regulation Review Subcommittee

RE: Report of the Administrative Regulation Review Subcommittee

DATE: October 6, 2021

Members: Senators Julie Raque Adams, Ralph Alvarado, Stephen West, and David Yates and Representatives Randy Bridges, David Hale, Deanna Frazier, and Marylou Marzian.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Carrie Nichols, and Christy Young.

Guests: Cassie Trueblood, Education Professional Standards Board; Bill Pauley, Sandy Williams, Kentucky Infrastructure Authority; Eden Davis, Larry Hadley, Board of Pharmacy; LeeAnn Diakov, Michael Rodman, Board of Medical Licensure; Christi Moffett, Board of Embalmers and Funeral Directors; Dave Dreves, Steven Fields, Chris Garland, Rich Storm, Department of Fish and Wildlife Resources; Carlos Cassady, Trevor Earl, Motor Vehicle Commission; Todd Allen, Tracy Goff-Herman, Greta Hylton, Robin Kinney, Matt Ross, David Wickersham, Department of Education; Morgan Eaves, Sam Flynn, John Ghaelian, Douglas Gott, Dale Hamblin, Robert Walker, Department of Workers' Claims; Ed O'Daniel, APCIA; Sharon Clark, Abigail Gall, Chad Thompson, Department of Insurance; Lee Guice, Veronica Judy-Cecil, Lisa Lee, Amy Richardson, Johnathan Scott, Department for Medicaid Services; Nancy Hagerman, Melissa Saladonis, Cincinnati Children's Hospital; Dr. John Blackburn, Kentucky Society of Anesthesiologists; Brian Rothman, VUMC; Donald Combs III, Dr. Curtis Koons, Pikeville Medical Center; Donna Little, Kentucky Hospital Association; Laura Begin, Lily Patteson, Misty Sammons, Steven Venno, Department for Community Based Services.

and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:084. Importation of game birds.

301 KAR 2:111. Deer and turkey hunting on special areas.

301 KAR 2:230. Shoot-to-retrieve field permits and procedures.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 3, and 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 2:260. Crow hunting season.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Motor Vehicle Commission

605 KAR 1:030. Applications. Carlos Cassady, executive director, and Trevor Earl, counsel, represented the commission.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 7 to incorporate by reference the Application for Motor Vehicle Dealer License. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:035. Facilities requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

605 KAR 1:215. Licensing fees.

In response to a question by Co-Chair West, Mr. Earl stated that the fees established in this administrative regulation had been previously established by KRS 190.030. These fees were the same amount as those previously established by statute; therefore, this was not a fee increase.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TRANSPORTATION CABINET
Motor Vehicle Commission
(As Amended at ARRS, September 14, 2021)

605 KAR 1:030. Applications.

RELATES TO: KRS 190.010-190.080

STATUTORY AUTHORITY: KRS 190.020, 190.030, 190.035, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.030 provides for the issuance of various licenses to engage in the activity of a motor vehicle dealer. **KRS 190.020 requires the commission, under administrative regulations promulgated by it, to issue the licenses provided for by KRS 190.010 to 190.080. KRS 190.073 requires the commission to promulgate appropriate and reasonable administrative regulations for the purpose of carrying out the provisions of KRS Chapter 190.** This administrative regulation allows the Motor Vehicle Commission to provide for an orderly procedure for the submission and content of applications to facilitate processing of applications and the issuance of the license.

Section 1. **Application and Renewal.** [~~Definitions. In this administrative regulation "established place of business" means, in addition to those requirements of KRS 190.010(18), a dealership sales facility which has the following:~~

~~(1) A business office which:~~

~~(a) Is underpinned and on a permanent foundation;~~

~~(b) Has electricity;~~

~~(c) Has a file cabinet used for the storage of business records;~~

~~(d) Has a working business telephone;~~

~~(e) Has a desk and chairs for the use of the business;~~

~~(f) Has at least 100 square feet of floor space;~~

~~(g) Shall be located on or immediately adjacent to the vehicle storage or display lot;~~

~~(h) Is not part of a residence;~~

~~(i) Is used exclusively as a licensee business office; and~~

~~(2) A vehicle storage or display lot which:~~

~~(a) Has a hard surface lot (gravel, asphalt, concrete or other suitable covering);~~

~~(b) Is at least 2,000 square feet in size;~~

~~(c) Is used exclusively for the display and showing of vehicles for sale and licensee customer parking;~~

~~(d) Is a distinctively defined area, from that which surrounds it. The dealership business office need not be a separate walled enclosure.]~~

Section 2.] **(1) An Application for Motor Vehicle Dealer License, form TC 98-1,** shall be submitted on behalf of **an [the]** individual or entity wishing to obtain a license using a name that is not the name of a current licensee. Applicants shall provide additional information in support of the application if requested by the commission or its staff. The application shall not be considered complete until the additional information is received. [~~Upon receipt of a completed application, a review of the application will be made, including an appropriate investigation as to the applicant's compliance with the appropriate statutory and regulatory provisions governing the issuance of a license.]~~

(2) Renewal of a dealer license shall be submitted by completing a Dealer License Renewal Application available on the commission's website at <https://mvc.ky.gov/Pages/Online-Renewal.aspx>.

Section 2[3]. The applicant [Applicant] ~~shall~~ **[will]** be notified in writing of the acceptance or rejection of the [his] application. If [~~and if~~] the application is rejected, the reason or reasons for rejection shall be specifically stated, and the rejected applicant shall be notified of the [his] right to a hearing before the commission in accordance with the rules and administrative regulations of the commission.[]

~~Section 4. A motor vehicle dealer, other than a wholesale dealer, shall display on his premises a sign with lettering not less than nine (9) inches in height, which is clearly visible from the nearest roadway, and which specifically identifies his business. The business name on the sign must be the same as that on the license application.~~

~~Section 5. A licensee may conduct more than one (1) business in a building otherwise meeting the requirements of this administrative regulation provided he has suitable space and adequate facilities to conduct the business of a motor vehicle dealer.~~

Section 3[6]. All applicants shall ~~[comply with the following]:~~

- (1) Submit a financial statement;~~[-]~~
- (2) Submit at least six (6) different photographs of the premises to be occupied by the applicant;~~[-]~~
- (3) Submit a detailed drawing of the [his] premises in relation to the nearest roadway, **which shall**~~[. This drawing is to]~~ include **the** location and size of **the** office **and the**~~[-]~~ display area, and **the** location of **the** dealership sign;~~[-]~~
- (4) Furnish a personal data sheet, **employment history, and photograph for** ~~[on]~~ each individual owning a portion of the business, ~~[and]~~ officers of a corporation, ~~or~~ members and managers of a limited liability company;~~[- including a photograph and an employment history of each such person.]~~
- (5) ~~[Every applicant, partner, [or] corporate officer, and manager or managing member of a limited liability company shall]~~ Sign a statement authorizing the Motor Vehicle Commission to make inquiries or investigations concerning **[that individual's]** ~~[the applicant's]~~ employment, credit, or criminal records **of the applicant or any partner, corporate officer, and manager or managing member of a limited liability corporation; and**~~[-]~~
- (6) ~~[The applicant]~~ [Applicant] ~~[shall]~~ Obtain garage liability insurance and file with the commission a certificate of insurance [~~(form TD 95-99)]~~ in the exact name in which it applies for a license.[]

~~Section 7. Every applicant who conducts an automobile salvage or junk business on the same premises shall be in compliance with all state administrative regulations regarding junkyard operations. Applicant shall have an area for the display of vehicles for sale and an office separate and apart from the area where junk cars or parts are stored or situated.~~

~~Section 8. If an applicant operates a garage for the repair or rebuilding of wrecked or disabled vehicles, an office and area for the display of vehicles separate and apart from the area where the repairs are made shall be allocated for the licensed activity.~~

~~Section 9. Not more than one (1) licensee for the same licensed activity shall be licensed from a single place of business.]~~

Section 4. An Applicant for a new, used, motorcycle, automotive mobility dealer, or motor vehicle leasing dealer license shall [must] demonstrate that they possess a minimum of \$50,000 in unencumbered cash or unencumbered inventory.

Section 5. (1) An Applicant for a new, used, motorcycle, automotive mobility dealer, or motor vehicle leasing dealer license who demonstrates that they possess between \$50,000 and \$100,000 of unencumbered cash or unencumbered motor vehicle inventory may be granted a license only if the applicant also obtains a commercial bond, as set forth in KRS 190.030(9), in the amount of the difference between the unencumbered cash and unencumbered motor vehicle inventory and the \$100,000 amount.

(2) The commission may require a commercial bond, as set forth in KRS 190.030(9), for an applicant with a net worth above the \$100,000 amount if the information submitted by the applicant indicates reasonable cause to doubt the financial responsibility or the applicant's compliance with the provisions of KRS Chapter 190.

Section 6[40]. Every licensee shall obtain a sales tax permit number from the Department of Revenue [Cabinet].

Section 7. Incorporation by Reference. (1) "Application for Motor Vehicle Dealer License, TC 98-1", 6/2021 edition is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky, 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

TRANSPORTATION CABINET
Motor Vehicle Commission
(As Amended at ARRS, September 14, 2021)

605 KAR 1:035, Facilities requirements.

RELATES TO: KRS 190.010 (19), 190.035

STATUTORY AUTHORITY: KRS 190.020, 190.035, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.035 provides for dealers to have an established place of business with sufficient space and attributes consistent with the activity of the license applied for as established by regulations issued by the commission. **KRS 190.073 requires the commission to promulgate appropriate and reasonable administrative regulations for the purpose of carrying out the provisions of KRS Chapter 190.** This administrative regulation establishes those requirements and standards.

Section 1. In addition to ~~the [those]~~ requirements of KRS 190.010(19), the established place of business of a dealership shall ~~[have the following]~~:

(1) **Have** a business office which:

(a) Is underpinned and on a permanent foundation. The dealership business office need not be a separate walled enclosure;

(b) Has electricity;

(c) Has adequate facilities for the physical or electronic storage of business records;

(d) Has a working business telephone used exclusively for the sale of motor vehicles;

(e) Has a desk and chairs for the use of the business;

(f) Has at least 100 square feet of floor space;

(g) ~~Is [Shall be]~~ located on or immediately adjacent to the vehicle storage or display lot;

(h) Is not part of a residence;

(i) Is used exclusively as a licensee business office and has a separate postal street address.

(2) **Have** a vehicle storage or display lot which:

(a) Has a hard surface lot (gravel, asphalt, concrete, or other suitable covering);

(b) Is at least 2,000 square feet in size;

(c) Is used exclusively for the display and showing of vehicles for sale and licensee customer parking; and

(d) Is a distinctively defined area from that which surrounds it.

Section 2. A location otherwise meeting the requirements of this administrative regulation may be used by more than one ~~(1)~~ business or licensee, provided that each licensee ~~[he]~~ has sufficient rights to suitable space and adequate facilities to conduct the separate business of a motor vehicle dealer. Notwithstanding the provisions of this section, not more than one (1) licensee for the same licensed activity shall be licensed from a single place of business if the licensee ~~shares [must share]~~ any of the facilities listed in Section 1 with another licensee or business in order to meet the minimum facility requirements.

Section 3. A motor vehicle dealer, other than a wholesale dealer, shall display on his premises a sign with lettering not less than nine (9) inches in height, which is clearly visible from the nearest roadway, and which specifically identifies his business. The business name on the sign ~~shall [must]~~ be the same as that on the license application.

Section 4. Every licensee who conducts an automobile salvage or junk business on the same premises shall be in compliance with all state administrative regulations regarding junkyard operations. The licensee shall have an area for the display of vehicles for sale and an office separate and apart from the area where junk cars or parts are stored or situated.

Section 5. If a licensee operates a garage for the repair or rebuilding of wrecked or disabled vehicles, an office and area for the display of vehicles separate and apart from the area where the repairs are made shall be allocated for the licensed activity.

Section 6. The requirements in this administrative regulation shall not apply to a non-profit motor vehicle dealer.

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TRANSPORTATION CABINET
Motor Vehicle Commission
(As Amended at ARRS, September 14, 2021)

605 KAR 1:215. Licensing fees.

RELATES TO: KRS 190.030

STATUTORY AUTHORITY: KRS 190.030, 190.073

NECESSITY, FUNCTION AND CONFORMITY: KRS 190.030(6)(a) requires the Motor Vehicle Commission to promulgate administrative regulations in accordance with KRS Chapter 13A to establish fees for licenses issued by the Motor Vehicle Commission. This administrative regulation establishes the fees associated with acquiring and renewing licenses.

Section 1. Licensing Fees. The license fee for a calendar year, or part thereof, shall be as follows:

- (1) For new motor vehicle dealers, \$200 for each office or branch or agent thereof, plus \$200 for a supplemental license for each used car lot not immediately adjacent to the office or to a branch;
- (2) For used motor vehicle dealers, \$200 for each office or branch or agent thereof;
- (3) For motor vehicle leasing dealers, \$200 for each office or branch or agent thereof;
- (4) For restricted motor vehicle dealers, \$200 for each office or branch or agent thereof;
- (5) For motorcycle dealers, \$200 for each office, branch, or agent thereof;
- (6) For motor vehicle manufacturers, \$200; and for each factory branch in this state, \$200;
- (7) For distributors, motor vehicle auction dealers or wholesalers, \$200;
- (8) For motor vehicle or recreational vehicle salespersons, forty dollars (\$40), to be paid by the licensed dealer for every salesperson the dealer employs;
- (9) For factory representatives, or distributor branch representatives, \$200;
- (10) For automotive mobility dealers, \$200;
- (11) For nonprofit motor vehicle dealers, \$200;
- (12) For nonprofit motor vehicle dealer salespersons, a license fee shall not be imposed;
- (13) For recreational vehicle manufacturers or distributors, \$200; and
- (14) For new recreational vehicle dealers, \$200.

Section 2. Renewal and Renewal Fees. (1) Pursuant to KRS 190.030(5) all licenses expire December 31 of the calendar year for which they are granted. Licenses in good standing and **that do not have[which have no]** outstanding fines or charges owed to the commission may be renewed by the licensee for the next calendar year. **Renewal shall be** by submitting a **Dealer License Renewal Application, as established in 605 KAR 1:030,[renewal application]** and the appropriate fee to the Motor Vehicle Commission prior to December 31. Licenses that have outstanding fines or charges owed to the commission, have been revoked, suspended, or are not in good standing **shall[may]** not be renewed.

(2) The fee for a license renewal shall be the fee **established[set forth]** in Section 1 for the applicable license type being renewed.

(3) A license **shall[may]** not be renewed for a new calendar year if events **established in[described]** KRS 190.030(7)(a) (change of location) or 605 KAR 1:070 (change of ownership) have occurred **that[which]** have not been approved by the commission. In such case, the licensee **shall[must]** submit a new **Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030[application]** reflecting the changes in order to obtain a license for the new calendar year.

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