

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing
(Amendment)

601 KAR 9:220. Motor vehicle dealer plates.

RELATES TO: KRS Chapters 186, 190

STATUTORY AUTHORITY: KRS 186.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.070(4) authorizes the cabinet to promulgate this administrative regulation which establishes ~~[To establish]~~ the criteria for the issuance and use of a motor vehicle dealer plate and to provide for the cancellation of a dealer plate for misuse of the plate.

Section 1. Definitions.

- (1) "Bona fide salesman or employee" is defined by ~~[means as defined in]~~ KRS 186.070(1)(e).
- (2) "Commission" means the Kentucky Motor Vehicle Commission.
- (3) "Commissioner" means the Commissioner of the Department of Vehicle Regulation or his designee.
- (4) "Demonstration trip" means a temporary use of a vehicle by a single prospective customer or his employee for a reasonable evaluative purpose incidental to the sale of the vehicle.
- (5) "Dealer plate" means any base plate or supplemental plate issued pursuant to KRS 186.070.
- (6) "Licensed motor vehicle dealer" is defined by ~~[means a motor vehicle dealer as defined in]~~ KRS 190.010 and licensed by the commission pursuant to the provisions of KRS Chapter 190.
- (7) "Misuse" means use of a dealer plate in a manner unauthorized by KRS 186.070 or Section 3 of this administrative regulation.

Section 2. Issuance of Dealer Plates.

- (1) Effective with the issuance of dealer plates for the licensing period beginning January 1, 1996, the maximum number of dealer plates that ~~[which]~~ may be issued to a licensed motor vehicle dealer who has been licensed for an uninterrupted period beginning on or prior to January 1, 1994, shall be based upon the total number of that dealer's vehicle sales for the period from July through the following June immediately preceding the date of the report of the information on vehicle sales by the dealer to the commission.
- (2)
 - (a) For a motor vehicle dealer licensed after January 1, 1994, beginning on the first day of January following an uninterrupted eighteen (18) month licensing period from the date of the first issuance of the dealer's license by the commission, the number of dealer plates issued shall depend upon the number of that dealer's vehicle sales for the period from July through the following June preceding the date of the report of the information by the dealer to the commission.
 - (b) A motor vehicle dealer licensed for less than eighteen (18) uninterrupted months may apply for any number of dealer plates.
- (3) The maximum number of dealer plates issued to a motor vehicle dealer shall be as follows:
 - (a) Ten (10) or fewer vehicle sales - one (1) dealer plate;
 - (b) Eleven (11) through twenty-five (25) vehicle sales - two (2) dealer plates;
 - (c) Twenty-six (26) through fifty (50) vehicle sales - three (3) dealer plates;

- (d) Fifty-one (51) through seventy-five (75) vehicle sales - four (4) dealer plates;
 - (e) Seventy-six (76) through 100 vehicle sales - five (5) dealer plates; and
 - (f) For more than 100 vehicle sales, the number of dealer plates issued shall be as requested by the dealer.
- (4) Upon recommendation by the commission to the commissioner, and for good cause shown, a dealer who is restricted in the number of plates issued based upon his sales figures may receive an additional plate or plates.
- (5)
- (a) The information on vehicle sales shall be provided by the commission to the Transportation Cabinet.
 - (b) The Transportation Cabinet shall cause the information to be entered into the automated vehicle information system.

Section 3. Use of Dealer Plates.

- (1) Use of a motor vehicle bearing a dealer plate upon the highways by a licensed dealer or bona fide salesman of the dealer shall consist of the use of the motor vehicle upon the highways at any time with the intent of offering or advertising the vehicle for sale to the public.
- (2) A bona fide employee of the dealer who is not a licensed salesman shall only operate a motor vehicle bearing a dealer plate:
- (a) When testing the mechanical operation of the vehicle;
 - (b) When transporting vehicles to or from the dealer's place of business; or
 - (c) For the necessary operation in furtherance of the dealer's business during the dealer's business hours.
- (3) A bona fide employee of the dealer who is not a licensed salesman shall not operate the vehicle for personal purposes or in demonstration or advertising to a prospective customer.
- (4) A prospective customer ~~who is operating upon the highways a motor vehicle bearing a dealer plate, shall be limited to one (1) demonstration trip unless he is accompanied by the licensed dealer to whom the dealer's plate was issued or a licensed salesman of the dealer.~~ may operate a vehicle with a properly issued dealer plate

Section 4. Cancellation of Dealer Plates Upon Misuse.

- (1) A final order issued by the commission finding misuse of a dealer plate shall be forwarded to the commissioner.
- (2) Upon receipt of the commission's final order, if no appeal from the commission's final order has been filed, and the time for taking an appeal has expired, or, if an appeal has been filed, after a ruling has been entered upholding the finding of the commission, the commissioner shall cause the dealer plate involved in the misuse to be canceled.

Section 5. Appeal from Final Order of Commission. The final order of the commission cancelling dealer plates may be appealed in accordance with KRS Chapter 13B.

JIM GRAY, Secretary
MATTHEW COLE, Commissioner

APPROVED BY AGENCY: June 12, 2024

FILED WITH LRC: June 13, 2024 at 11:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 21, 2024, at 11:00 a.m. EST, at the Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to

attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on August 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email jon.johnson@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson

(1) Provide a brief summary of:

(a) What this administrative regulation does:

It allows for test drives without a salesperson present. It allows a test drive to be a longer duration than just a drive around the block. A dealer could allow the customer to take the vehicle home overnight to allow their spouse or family members to participate in the decision toward the purchase.

(b) The necessity of this administrative regulation:

Establishes policy and guidelines for dealer plate use.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

Establishes use of dealer plates, addresses misuse of dealer plates, and number of plates based upon sales.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

provides boundaries to safeguard against abuse of dealer plates.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The proposed change would give greater flexibility for dealerships in accommodating potential customers for test drives.

(b) The necessity of the amendment to this administrative regulation:

The change would be pro-business activity.

(c) How the amendment conforms to the content of the authorizing statutes:

The change does not negatively impact the overall statute.

(d) How the amendment will assist in the effective administration of the statutes:

The change allows flexibility for dealers to sell motor vehicles to potential customers whereas current language is very restrictive.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

2,500 licensed car dealerships operating in the Commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Each dealer would have it's own policies and procedures for overnight test drives.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There would be not cost associated with this proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This proposed amendment could benefit all licensed dealers to increase motor vehicle sells.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Nothing

(b) On a continuing basis:

Nothing

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Enforcement of this regulation is maintained by the Kentucky Motor Vehicle Commission whose funding is from dealer fees. The proposed change would not have any financial impact for administration.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

This change would not cause a need for increased fees to implement. Also, there should be no increased cost to the Kentucky Motor Vehicle Commission

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

No, it does not.

(9) TIERING: Is tiering applied?

In this case there is no tiering of functions or operations.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS Chapters 186, 190

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

Kentucky Transportation Cabinet, Department of Vehicle Regulation. The enforcement of this regulation and monitoring activities would be the responsibility of the Kentucky Motor Vehicle Commission. Insurance providers may have stipulations within their policies with dealers.

(a) Estimate the following for the first year:

Expenditures:The proposed change would not have any impact for expenditures.

Revenues:The proposed change would not have any impact for revenues.

Cost Savings:The proposed change would not have any cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The proposed change would not have any impact for expenditures or revenues in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

Approval of the amendment would not have any negative impact for the listed entities. It is very probable that the approval of this amendment would promote increased sales for dealerships. Increased sales activities will benefit the tax structure at the local level.

(a) Estimate the following for the first year:

Expenditures:Zero

Revenues:Zero

Cost Savings:Zero

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Longer test drives i.e., overnight test drives would result in increased motor vehicle sales. The family becomes more involved in the decision.

(4) Identify additional regulated entities not listed in questions (2) or (3):

n/a

(a) Estimate the following for the first year:

Expenditures:Zero

Revenues:Zero

Cost Savings:Zero

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Revenues should increase after implementation and use by dealerships.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

There is no fiscal impact to government, local jurisdictions, and entities. This amendment will allow flexibility for dealers to allow test drives on an overnight basis. It encourages the consumer to check out their potential purchase prior to a definite decision. Spouses like to be part of financial decisions which are made for the family.

(b) Methodology and resources used to determine the fiscal impact:

This proposal allows for test drives to be more than a ride around the block or a mile from the dealership. The difference is about time. A consumer can use more than 15 minutes to study a vehicle for worthiness, value, and safety concerns. There is no cost for the exception of gasoline and mileage for an extended test drive. The dealer or consumer will be responsible for the purchase of gasoline.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

Absolutely not. There would be no financial impact to these entities.

(b) The methodology and resources used to reach this conclusion:

There are no tax issues involved in this matter. The proposal is to remove restrictive language in the use of a dealer plate for test drives. The consumers will have a positive impact and benefit on the approval of the proposed.