



**Newsletter of the
Colorado Motor Vehicle
Dealer Board
and
Auto Industry
Division**

NEW SALESPERSON APPLICATION

Significant Changes with Salesperson Licensing

Please Share With Your Human Resource Staff

A new Salesperson application (DR2115) was approved by the Auto Industry Division (AID), Colorado Auto Dealers Association (CADA) and Colorado Independent Automobile Dealers Association (CIADA) and is being implemented effective May 1, 2006. The new application will be available on the AID web site April 3, 2006. Please start using this application May 1, 2006. Starting May 1, 2006 any old version application (prior to 1/27/06) submitted will be rejected. The dealer/salesperson will be required to complete/submit the new version of the application form.

The new application allows the dealer to record the salesperson's bond number (Number 20 on the application) and the name of the bond company (number 21 on the application). These are required data fields. The absence of the data from the dealer will result in rejection of the application. Dealers will retain the original bond for the salespeople. The bond will be maintained at the dealership and will be subject to inspection by AID staff. The dealership will no longer be required to submit the original bond as part of the license application process.

Another simplification, is the elimination of the exam affidavit. The dealer will now certify the salesperson scored a 100% on the exam. Dealers may find it prudent to keep the exams in the salesperson's personnel file.

The new application does not allow a salesperson to transfer their license from one dealership to another. Transfers **MUST** be accomplished by using "Change of Employer Notification" (DR2132). Beginning May 1st AID will not process an application to transfer a salesperson license which is not on the "Change of Employer Notification". Applications that are submitted to transfer a license will be rejected. Please help us help you by using the correct paperwork.

A \$55 fee will be charged to reprint a license. AID is authorized by statute to reissue lost or misplaced licenses. State law and Dealer Board regulations require AID to charge \$55 for all reissued salesperson licenses. So, it is critical that salespeople get both copies (AID and Cashier) of the "Change of Employer Notification".

Any application or "Change of Employer Notification" that are incomplete will be rejected and returned to the dealership.

The new salesperson application and a "sample only" of the Change of Employer Notification are on our webpage www.revenue.state.co.us/dlr/home.asp under Applications/Forms.

One last thought, proof read your applications. If you cannot read or understand the answers on the application neither can the AID staff. If the application is not complete, AID cannot process. Our goal is to get salespeople licensed as is appropriate under the law and in a quick and efficient manner. Help us help you.

ROUTING BOX

Owner
Finance Manager
General Manager
Sales Manager



Share The Wheels

Owners, managers, salespersons and office staff can all benefit from reading Wheels. The articles provide information on topics that affect the many different employee functions. Keep your staff knowledgeable, "Share the Wheels".

WHOLESALEERS CANNOT SELL RETAIL

12-6-102(18) “Wholesaler” means a person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale, lease, or exchange of an interest in new or new and used motor vehicles solely to motor vehicle dealers or used motor vehicle dealers”. **12-6-118(4)** “A wholesaler’s license may be denied, suspended or revoked for the selling, leasing or offering or attempt-

ing to negotiate the sale, lease or exchange of an interest in motor vehicles by such wholesaler to persons other than motor vehicle dealers, wholesalers or wholesale motor vehicle auction dealers. Wholesalers cannot negotiate to sell or offer to sell a motor vehicle to a retail consumer and later have the paperwork completed by a licensed motor vehicle dealer. Wholesalers **cannot** sell to the public.

Licensing Leads *by Bud Heinrich, Licensing Supervisor*

Requirements for Places of Business

With the increasing sales of motor vehicles being sold via the internet this is a reminder that dealers’ places of business must meet and maintain the following requirements.

1. A permanent enclosed building or structure large enough to accommodate the dealer’s office. In no event shall a room in a hotel, rooming house or apartment house building or a part of any single or multiple dwelling house be considered unless the entire ground floor of such hotel, apartment house or rooming house building or such dwelling house is devoted principally to and occupied for commercial purposes and the office of the dealer is located on the ground floor.
2. Books and records stored safely and available for inspections. Books and records shall be open for inspection Monday through Friday between 9 AM and 5 PM by the Board and/or the Board’s agents.
3. Electrical service.
4. Adequate sanitary facilities (restroom) which means a permanent sewer hookup, cesspool or septic tank with leaching field, or a portable chemical toilet.
5. Space to display one or more vehicles.
6. If open less than 40 hours, hours of operation must be posted and open at least three days per week for a continuous four hours per day between 8 AM and 9 PM.
7. Must comply with local zoning requirements. It is important that prior to leasing/purchasing a location, licensees check with local zoning to ensure the property is zoned for the selling or leasing of vehicles. It is suggested that licensees obtain written verification from the zoning department because in some instances, licensees may be required to provide the written verification from zoning.
8. The location must be exclusively used for the dealer’s business. The office, entrance and dis-

play area cannot be shared with another business.

9. The property must be owned or leased by the licensee and occupied by the licensee.
10. A permanent sign must be in place or a temporary sign will be acceptable if permanent sign is ordered.
11. The sign must display the licensed name (DBA name).
12. Sign’s letters must be at least six-inch high.
13. Sign is visible to the major avenue of traffic. If location is in an office building the licensee’s name must be displayed on the general billboard. If no bill board is available, sign must be located in a place that is visible to the public.
14. The Division requires two photos of the location - one photo showing a full view of the lot and sign from across the street, and a close-up of the office building and sign.

Should a licensee fail to meet and maintain these requirements it could be grounds for denial, suspension or revocation of the license.

Additional reminder, should a licensee change locations or add an additional location the Auto Industry Division must be notified 10 days PRIOR to the change Please check our web site for the required forms.



DEALER BOARD ACTIONS

Scott P. Rogers, dba Scotties AAA Automotive Brokers-Colorado Springs - #36981 – defrauding any buyer/seller; fraudulent transaction. **\$20,000 FINE, ALL COMPLAINTS RESOLVED, LICENSE REVOKED.**

James P. Gebhardt, dba Gebhardt Automotive-Boulder - #558 – failure to honor written agreement. **\$5,000 FINE, (\$4,000 HELD IN ABEYANCE FOR 60 DAYS PROBATION)**

Luby Chevrolet Company– Lakewood - #333 – representing/selling any used vehicle as new. **\$5,000 FINE, (\$4,000 HELD IN ABEYANCE FOR 60 DAYS PROBATION).**

Steven Ecker, dba Steves Car Company –Colorado Springs - #36275 – wholesaler selling retail; advertising. **12 MONTHS PROBATION**

Peter & Lyubov Svyatelskaya, dba LPS Auto Sales - Englewood - #37056 – defrauding any buyer/seller; fraudulent sale; misrepresentation. **\$12,000 FINE, (3 DAY SUSPENSION HELD IN ABEYANCE FOR 1 YEAR PROBATION.**

Yvachestav Chizhov & Boris Shvarts, dba RP Motorsports Inc. - Lakewood - #37324 – defrauding any buyer/seller (6 counts); failure to deliver title (6 counts); temporary permits; failure to honor check/draft; place of business; licensing character. **\$160,000 FINE, RESOLVE ALL COMPLAINTS, LICENSE REVOKED.**

Brad Talbert & Michael Clare, dba MC Auto Sales - Denver - #3153 - failure to honor check/draft; defrauding any buyer/seller; failure to perform written agreement. **\$40,000 FINE, RESOLVE ALL COMPLAINTS, LICENSE REVOKED.**

Lailuma & Bshir Rasul, dba Fox Street Auto Sales - Denver - #37872 - principal place of business; failure to display dealership sign; failure to display dealer license; FTC Buyers Guide. **\$3,000 FINE HELD IN ABEYANCE, UPON RE-LICENSURE FINE MUST BE PAID, LICENSE REVOKED.**

Mel & Derek Marquez, dba Interstate Sales & Service Auto Brokers - Denver - #4724. failure to deliver title (11 counts); defrauding any buyer/seller (11 counts). **VOLUNTARY SURRENDER OF LICENSE, LICENSE REVOKED.**

Douglas McLain, John Keil, Lisa Woolridge, dba Fustion Motorsports - Littleton - #37477 - false oath; misuse of dealer plate. **VOLUNTARY SURRENDER OF LICENSE, LICENSE REVOKED.**

Howard Hansen, Salesperson - #32431 - to exercise any of the privileges granted under a license that such person does not hold (4 counts); fraudulent business practice (4 counts); employing an unlicensed salesperson. **\$10,000 FINE, (\$9,500 SUSPENDED), WAIT 12 MONTHS BEFORE REAPPLYING FOR A LICENSE, 24 MONTHS PROBATION SHALL BE A CONDITION OF ANY LICENSE ISSUED.**

Patrick Camara, Salesperson - #158801 - unfitness of character (4 counts); failure to honor check/draft (3 counts). **LICENSE REVOKED FOR A PERIOD OF 10 YEARS.**

General Managers and Finance Managers Are Salespeople

A motor vehicle salesperson is defined any natural person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly, regularly or occasionally, by any motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles. (12-6-102(14) C.R.S.) Any person who negotiates a sale, purchase or exchange must be licensed as a salesperson. General managers and finance managers must also be licensed. Managers may at some time deal with customers either in negotiating the finance part of

the sales transaction; or, in finalizing the purchase or sales contract; or, in resolving a dispute. A dealership may be cited for employing an unlicensed salesperson and the salesperson may be cited for unlicensed sale activities. (12-6-118(3)(n), 12-6-120(2)C.R.S.)



Off- Premise Permits

In previous years the Compliance Section has discovered numerous violations by dealerships at the Denver Auto Show and at the National Western Stock Show pertaining to off premise sales permits. The Division is aware that vehicles displayed for sale may be provided by the manufacturer. However, dealerships participating in these shows must remember that if the dealership chooses to send salespeople to the show to discuss the vehicle with prospective purchasers, the dealership must obtain an off premise permit. A request for an off premise

permit shall be made in writing **prior** to the event and shall list the location and the dates of the sale. The permit **shall be posted** for inspection at the sale. The National Western Stock Show and the Metro Denver Auto Dealers Association annual Denver Auto Show are two of the three shows allowed to exceed six days, these shows shall not exceed twenty days. The other show allowed to exceed six days is the Colorado State Fair, all other off premise sales shall not exceed six days. **NO SUNDAY SALES ARE PERMITTED.**

Moving to Another Location?

The Compliance Section has been attempting to conduct routine audits of dealerships only to learn that the dealership is no longer at its licensed location. Remember to notify the Board of any change of location. If a dealership abandons its licensed location for more than 30 days, the licensee is required to file a new application to renew the license. C.R.S. 12-6-116 states: that should a

dealership change the site or location of such dealers' principal place of business, such dealer shall immediately upon making such change so notify the Board in writing, and thereupon a new license shall be granted for the unexpired portion of the term of such license. You must submit a DR2003 Application for Change of Location and the appropriate fee.

MANDATORY DISQUALIFYING CONVICTIONS

We have received numerous phone calls from dealers wanting to know what a mandatory disqualifying conviction is. Section 12-6-118(7)(a), C.R.S., **mandates the denial or revocation** of a license when an applicant or licensee has been convicted of or pled no contest to any of the following offenses in Colorado or any other jurisdiction during the past ten years: 1) a felony in violation of Article 3, 4, or 5 of Title 18, C.R.S., or any similar crime in another jurisdiction, and 2) any crime involving odometer fraud, salvage fraud, motor vehicle title fraud, or the defrauding of a retail consumer in a motor vehicle sale or lease transaction.

Article 3 of Title 18 covers crimes against persons such as murder, assault, kidnapping, sexual assault, manslaughter, menacing weapon, custody violation, vehicular homicide, criminal extortion and enticing a child. **Article 4 covers crimes against property** including arson, theft, burglary, robbery, criminal mischief over \$500, criminal trespass in the 1st degree and unlawful transfer for sale (copyright infringement). **Article 5 covers fraud** including forgery, criminal possession of a forged instrument or forging an instrument, criminal impersonation, fraud by check (over \$500) commercial bribery, bribery in sports and equity skimming.

Dealers, if your salesperson applicants have been convicted of or pled no contest to these offenses, their license application **will be denied**. The Board has no flexibility under the law to issue a license in these circumstances. Save yourself time and energy; be prudent in reviewing the applications that you accept. If you have a question regarding the specifics of a particular applicant's criminal history that you would like answered before accepting an application from them, we would be happy to help you sort out the details.



Reminder to Dealers

The Board wishes to remind dealers that they are responsible for the actions of their employees and salespeople. It is essential that dealers be aware of this when hiring, supervising and delegating duties to employees.

UNIFORM CONSUMER CREDIT CODE RULES

This Rule Was Effective November 1, 2000

Rule 10 Records to be Maintained by Creditors

- (a) A creditor must maintain and make available records for compliance examinations and investigations that enable the Administrator to determine that the creditor is in compliance with the Colorado Uniform Consumer Credit Code ("UCCC"). These records include, but are not limited to, the following as applicable:
1. Advertising and solicitation material.
 2. Credit applications, approvals, and denials.
 3. Disclosures required by the UCCC, including the Deferred Deposit Loan Act, and the federal Truth in Lending and Truth in Leasing Acts, and any regulations thereunder.
 4. Promissory notes, loan agreements, retail installment sales contracts, invoices, purchase orders, and buyer's orders.
 5. Co-signer notices.
 6. Rescission notices.
 7. Payment and account history documents including application of payment to principal and interest, prepayment, payment in full, delinquency fees, insufficient check fees, credits and refunds, and ledger transaction codes.
 8. Delinquency fee and deferral notices.
 9. Change in terms notices.
 10. Right to cure, default, and repossession of collateral notices.
 11. Collection attempt documentation including records of the time, date, and substance of telephone calls.
 12. Insurance authorizations, policies, premiums, and certificates.
 13. Authorization for benefits permitted as additional charges by UCCC rule.
 14. Receipts for cash payments.
 15. Release of security interests, termination of financing statements, and payment in full notices.
 16. Credit reports, appraisals, title policies, and other records of closing costs on real estate secured transactions legally permitted to be excluded from the finance charge.
 17. For deferred deposit lenders, a consumer log including the consumer's name, date of all loans made to the consumer for the prior four years, due date, actual payment date, and method of payment (e.g., consumer's check deposited or cashed; payment electronically debited from consumer's bank account; consumer redeems check or debit authorization with cash; loan renewed, refinanced, extended or rolled).
 18. For deferred deposit lenders, daily activity logs, check and cash disbursement registers, and bank records including bank statements and deposit slips reflecting disbursements of loan proceeds and payments on deferred deposit loans.
 19. For deferred deposit lenders, records of postings of charges, notices on assignment or sale of instruments, and compliance with renewal limitations and requirements.

Consumer Credit Finance Notification

Certain automobile dealers that finance and collect payments from consumer retail installment contracts and consumer leases must notify the Colorado Uniform Consumer Credit Code office and pay an annual fee. The notification requirement applies to dealers (and other merchants) that collect consumer retail installment contracts and leases. However, dealers that sell or assign all credit contracts within 30 days after the dates of the contracts are exempt from notification and it is the finance companies that must pay the appropriate fees.

A dealer's initial notification filing is due within 30 days after it engages in consumer credit financing. Renewal filings are due by January 31 of each calendar year with a grace period

until March 1. Renewal forms (on yellow paper) were mailed in December 2005 to dealers who paid last year. Notification fees are used to fund investigations of consumer credit financing complaints.

Failure to pay the required fee means the dealer has no legal right to collect finance charges on its contracts and may be subject to legal action. For more information or to request a "retail sales" notification form contact the Colorado UCCC at (303) 866-4494 or by e-mail at uccc@state.co.us. Additional information is available at www.ago.state.co.us/UCCC/UCCCmain.cfm (forms are not available online).



ADVERTISING RULE #13

Advertisement means any commercial message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television or public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, on a computer display, or in any point-of-transaction literature or price tag, that is delivered or made available to a customer or prospective customer in any manner whatsoever; except that such term does not include materials required to be displayed by federal or state law.

Regulation 12-6-118(3)(k) Rule 13. Advertising the price of a vehicle without including all costs to the purchaser at the time of delivery, except sales tax, finance charges, cost of emissions test, and transportation costs, incurred after sale, to deliver the vehicle to the purchaser at the purchaser's request.



Reminder to Dealers

All AID forms are available on our website and can be downloaded; however, when submitting these forms make sure that you fill them out thoroughly and accurately and provide the **correct number of copies**.

Besides obtaining all AID forms, our website contains other written material regarding the Auto Industry Division. Please check out our Internet home page website at www.revenue.state.co.us/dlr/home.asp. You may also email our Public Information Officer at dealers@spike.dor.state.co.us with any questions or concerns.

DEALER BOARD MEMBERS

President, Gretchen Olson

First Vice President, Jeff Carlson

Second Vice President, Jim Varner

Bob Feder, Steve Perkins, Lisa Schomp,
Dale Spradley, Mark Striegnitz, Jim Reitz

Executive Secretary, Robert C. Sexton

AUTO INDUSTRY DIVISION

Division Director, Robert C. Sexton

Assistant to the Director, Kaye Kopecky

Agent-in-Charge, G. Tardy

Compliance/Licensing Supervisor,
Chuck Halberstadt

Correspondence is welcome. Address to:
Auto Industry Division

1881 Pierce Street, Lakewood, CO 80214

Phone: (303) 205-5604 FAX: (303) 205-5977

E-mail: dealers@spike.dor.state.co.us

Internet: www.revenue.state.co.us/dlr/home.asp

C A L E N D A R

Dealer Board Business Meeting: Second Thursday of each month at 9:00 am, 1881 Pierce St, Lakewood.

Dealer Board Hearings: Fourth Thursday of each month, if necessary, at 9:00 am, 1881 Pierce St, Lakewood.

License Law Seminar - Colorado Springs: First Tuesday of each month at 10:00 am, 4420 Austin Bluffs Pkwy, Colorado Springs.

License Law Seminar - Ft Collins: BY APPOINTMENT ONLY, Second Wednesday of each month at 10:00 am, 1121 W Prospect Road, Ft. Collins

License Law Seminar - Lakewood: Third Tuesday of each month at 9:00 am, 1881 Pierce St, in the Department of Revenue Building, Conf. Rm. C, Lakewood.

Note: Times and locations are subject to change.
Call the Auto Industry Division at (303) 205-5784.

Please note: While every effort is made to make the information in *Wheels* as accurate and helpful as possible, it is not offered as a substitute for legal advice.