



ELEVENTH
EDITION
2011

FLORIDA MOTOR VEHICLE, MOBILE HOME AND
RECREATIONAL VEHICLE DEALERS' HANDBOOK

Department of Highway Safety and Motor Vehicles
Division of Motorist Services
State of Florida

**FLORIDA MOTOR VEHICLE, MOBILE HOME AND RECREATIONAL
VEHICLE DEALERS' HANDBOOK
ELEVENTH EDITION
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Useful Links

Department's Website:	www.flhsmv.gov
Department Manuals and guides:	http://www.flhsmv.gov/html/titlinf.html
Department forms:	http://www.flhsmv.gov/html/forms.html
Information on licensing procedures:	http://www.flhsmv.gov/html/titlinf.html
Information on Mobile Homes:	http://www.flhsmv.gov/mobilehome/
Information on Electronic Title:	http://www.flhsmv.gov/html/emt.htm
Information on Tag and Title:	http://www.flhsmv.gov/html/titlinf.html
Frequently asked Questions:	http://www.flhsmv.gov/html/titlinf.html
Bureau of Motor Vehicle Field Operations, Regional Offices List:	http://flhsmv.gov/dmv/BUR_Field_Ops_Address.pdf
Dealer Training Schools List:	http://flhsmv.gov/dmv/L_Dealer_Trng_Sch.pdf
Dealer License fee Schedule:	http://flhsmv.gov/dmv/DealerLicenseFeeSchedule.pdf
Dealer License Renewal Schedule:	http://flhsmv.gov/dmv/DealerLicenseRenewalSchedule.pdf
FDLE Approved Service Providers for Electronic Fingerprints:	http://flhsmv.gov/dmv/FDLEApprovedServiceProviderListForElectronicFingerprints.pdf
Division of Corporations, Secretary of State:	www.sunbiz.org
Florida Statutes:	www.flsenate.gov
National Highway Traffic Safety Administration:	www.NHTSA.gov
Department of Revenue:	http://dor.myflorida.com/dor
Division of Administrative Hearings:	http://www.doah.state.fl.us/internet/default.cfm
Florida Administrative Weekly:	https://www.flrules.org/bigdoc/default.asp
Florida Administrative Code:	https://www.flrules.org/
Florida Tax Collectors Offices:	http://www.floridataxcollectors.com/

Julie L. Jones

Executive Director

Sandra C. Lambert

Director

Division of Motorist Services

September 2011

Dear Reader:

The purpose of this manual is to assist potential applicants, as well as, those licensed as motor vehicle, mobile home and recreational vehicle dealers, manufacturers, importers and distributors in understanding dealer licensing requirements and processes.

The Division of Motorist Services has a commitment through service, integrity, courtesy, professionalism, innovation, excellence and education, to provide prospective and established licensees a foundation that will prevent violations of Florida laws, rules, or procedures that have a potential to harm consumers.

This handbook is designed as a reference guide to focus on manufacturer, importer, distributor and dealer operational obligations, responsibilities and the requirements set forth in Chapters 317, 319, and 320, Florida Statutes, Florida Administrative Code, and procedures of the Department of Highway Safety and Motor Vehicles, Division of Motorist Services, and other state agencies.

Although this handbook is comprehensive, it cannot address every conceivable situation that may arise in the course of dealing in motor vehicles, mobile homes, or recreational vehicles. Any omissions in this regard, however, do not exempt dealers from being knowledgeable of and adhering to all applicable statutes, rules, policies and procedures.

There is some redundancy in this handbook; however, the redundancy is necessary to explain how the various laws and administrative rules apply to particular circumstances.

It is our sincere hope that this publication will foster better communication between the Division of Motorist Services and the licensed motor vehicle, mobile home, and recreational vehicle dealers of Florida and those who are contemplating becoming dealers.

Edward D. Broyles, Chief
Motor Vehicle Field Operations
Division of Motorist Services

Bureau of Motor Vehicle Field Operations

The Bureau of Motor Vehicle Field Operations licenses and regulates all types of motor vehicle dealers, manufacturers, importers and distributors and monitors the construction and installation of manufactured homes. The bureau has well trained employees who are responsible for all field operations involving the licensing of motor vehicle, mobile home, and recreational vehicle dealers, manufacturers, and motor vehicle importers and distributors and monitoring the construction and installation of manufactured homes. The Bureau has twelve office locations in the state to offer professional assistance to consumers the motor vehicle industry.

Dealer License Issuance

- The bureau issues and renews licenses for over 13,000 motor vehicle, auction, salvage, wholesale, mobile home, recreational vehicle dealers and manufacturers, distributors and importers each year.
- The Dealer Licensing Section oversees the issuance process and tracks cancellation of surety bonds, garage liability insurance cancellations and initiates the appropriate actions, notices of summary suspensions, revocations, cancellations, and reinstatements of dealer licenses, as necessary. This section ensures all statutory requirements are met when licensing and renewing dealers and manufacturers.
- Dealer Licenses and Renewals are issued in the Field for customer convenience. Manufacturer, Importer and Distributor licenses are issued from headquarters.

Consumer Complaints

Consumer complaints received against a mobile home, recreational vehicle, or motor vehicle dealer are handled by the Regional Offices. Consumer complaints received against manufacturers of mobile homes or the set up of mobile homes are handled by the Manufactured Housing Section. The entire field staff is responsible for the field work and investigations necessary to resolve complaints. The Bureau does not make any assumptions of responsibility or liability when a complaint is filed. The Department attempts to assist in the resolution of complaints in an equitable manner with consumer protection being emphasized.

Inspections of Rebuilt and Assembled from Parts Vehicles

Florida law requires vehicles that are rebuilt or assembled from parts to be inspected by the Department before a title is issued.

Dealer Records Inspections

The bureau conducts dealer record inspections of dealers to ensure compliance with the laws governing dealerships, especially those concerning the purchase and sale of motor vehicles and mobile homes.

Part II

Definitions

Unless the context clearly indicates otherwise, the following words, as used in this handbook will have the meanings as described below:

- A. Person** – Any natural person, firm, partnership, association, or corporation.
- B. Dealer or Licensee** – Any person to whom a license has been issued denoting that person as a dealer in motor vehicles, mobile homes, or recreational vehicles.
- C. Applicant** – Any person who has filed a dealer license application with the Division of Motorist Services.
- D. Department** – Department of Highway Safety and Motor Vehicles.
- E. Division** – Division of Motorist Services.
- F. Vehicle** – A motor vehicle (automobile, truck, motorcycle, trailer), mobile home, or recreational vehicle.
- G. New Motor Vehicle** – One which has not been titled and is still owned and/or operated on authority of the Manufacturer Statement of Origin (M.S.O.) as the current proof of ownership document.
- H. Used Motor Vehicle** – One which has been sold to an ultimate purchaser or one on which a certificate of title has been issued.
- I. Mobile Home Installer** – Any person who installs mobile homes by performing the operations at the occupancy site which renders a mobile or park trailer fit for habitation.
- J. Manufacturer** - Any person, whether a resident or nonresident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. The term "manufacturer" includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, it distributes its products.
- K. Distributor** - Any person, resident or nonresident, who, in whole or in part, sells or distributes motor vehicles to motor vehicle dealers or who maintains distributor representatives.
- L. Importer** - Any person who imports vehicles from a foreign country into the United States or into this state for the purpose of sale or lease.
- M. Demonstrator** - Any new vehicle which is carried on the records of the dealer as a demonstrator and is used by, being inspected or driven by the dealer or t employees, or prospective customers for the

purpose of demonstrating vehicle characteristics in the sale or display of motor vehicles sold by the dealer.

- N. Motorcycle** – Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped.

Motorcycles have an engine displacement greater than 50 cc's, 1492 watts or 2bhp or they can have an engine displacement 50 cc's or less, 1492 watts or less, or 2bhp or less.

- O. Moped** – Any vehicle with pedals to permit propulsion by human power, having a seat and saddle for the use of the rider and designed to travel on not more than three wheels.

- P. Electric Vehicle** – means a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.

- Q. Mobile Home** - means a structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

- R. Recreational Vehicle** - means a recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

- S. Salvage Vehicle** - means a motor vehicle or mobile home which is a total loss.

- T. Rebuilt Vehicle** - A motor vehicle or mobile home built from salvage or junk.

- U. Assembled from Parts (ASPT)** - A motor vehicle or mobile home assembled from parts or combined from parts of motor vehicles or mobile homes new or used. Assembled from Parts does not mean a motor vehicle as a rebuilt vehicle.

- V. Low Speed Vehicle (LSV)** – A four-wheeled Electric Vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

- W. Golf Cart Conversion** - A golf car is a vehicle that is a golf cart converted to an electric Low Speed Vehicle that meets all LSV requirements.

- X. Mini-Truck** - "Mini truck" means any four-wheeled, reduced-dimension truck that does not have a National Highway Traffic Safety Administration truck classification, with a top speed of 55 miles per hour, and which is equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, and seat belts.

Y. Mobile Home Salesperson - Any person as defined per section 320.77, Florida Statutes, employed by mobile home dealers or mobile home brokers as a salesperson.

Z. True Copy - A complete and accurate photographic copy of a document which reflects all characters, marks and signatures contained in the original.

AA. Fictitious Name - Any name under which a person transacts business in this state, other than their legal name.

BB. Business- Any enterprise or venture, in which a person sells, buys, exchanges, barter, deals, or represents the dealing in anything or article of value, or renders services for compensation.

CC. Legal Name- A person's given name, or entity that has been properly registered. Examples: trademarks, service marks, corporations, limited partnerships.

DD. Bonafide Employee - A person who is employed by a licensed motor vehicle dealer and receives annually an Internal Revenue Service Form W-2 or an **independent contractor** who has a written contract with a licensed motor vehicle dealer and receives annually an Internal Revenue Service Form 1099, for the purpose of acting in the capacity of or conducting motor vehicle sales transactions as a motor vehicle dealer.

FF. TRI-VEHICLE – An enclosed three-wheeled passenger vehicle that:

(a) Is designed to operate with three wheels in contact with the ground;

(b) Has a minimum unladen weight of 900 pounds;

(c) Has a single, completely enclosed, occupant compartment;

(d) Is produced in a minimum quantity of 300 in any calendar year;

(e) Is capable of a speed greater than 60 miles per hour on level ground; and

(f) Is equipped with:

1. Seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, "Seating systems" (49 C.F.R. s. [571.207](#));

2. A steering wheel used to maneuver the vehicle;

3. A propulsion unit located forward or aft of the enclosed occupant compartment;

4. A seat belt for each vehicle occupant certified to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, "Seat belt assemblies" (49 C.F.R. s. [571.209](#));

5. A windshield and an appropriate windshield wiper and washer system that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, "Glazing Materials" (49 C.F.R. s. [571.205](#)) and Federal Motor Vehicle Safety Standard No. 104, "Windshield Wiping and Washing Systems" (49 C.F.R. s. [571.104](#)); and

6. A vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, "Rollover crush resistance" (49 C.F.R. s. [571.216](#)).

PART III

Dealer Licensing

A. WHO MUST BE LICENSED

1. AS A MOTOR VEHICLE DEALER

320.27, F.S.

Any person engaged in the business of buying, selling, or dealing in motor vehicles, or offering or displaying motor vehicles for sale at wholesale or retail, is a motor vehicle dealer. Any person who buys, sells, or deals in three or more motor vehicles in any twelve (12) month period or who offers or displays for sale three or more motor vehicles in any twelve month period is prima facie presumed to be engaged in business as a motor vehicle dealer, and therefore, must be licensed. The terms "selling" and "sale" as used in the law, include lease-purchase transactions.

2. AS A MOBILE HOME OR RECREATIONAL VEHICLE DEALER

320.77, 320.771, F.S.

Any person engaged in the business of buying, selling, or dealing in mobile homes or recreational vehicles or offering or displaying mobile homes or recreational vehicles for sale, is defined as a mobile home or recreational vehicle dealer, respectively.

As used in the law, the term "dealer" includes a mobile home or recreational vehicle broker. The definition of a broker under Florida law is any person who is engaged in the business of offering to procure or procuring used mobile homes or recreational vehicles for the general public; who holds themselves out through solicitation, advertisement, or otherwise as one who offers to procure or procures used mobile homes or recreational vehicles for the general public; or who acts as the agent or intermediary on behalf of the owner or seller of a used mobile home or recreational vehicle which is for sale or who assists or represents the seller in finding a buyer for a mobile home.

Any person, who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of one or more mobile homes or recreational vehicles in any twelve (12) month period is prima facie presumed to be a dealer. As in the case of motor vehicles, the terms "selling" and "sale" include lease-purchase transactions.

B. WHEN LICENSING IS NOT REQUIRED

320.27(1)(c)(5), and 319.20, F.S.

1. **AS A MOTOR VEHICLE DEALER** - Any person dealing in motor vehicles under one or more of the circumstances described below is specifically exempt by law from the necessity of being licensed as a motor vehicle dealer:
 - a. Persons not engaged in the purchase or sale of motor vehicles as a business, but rather, are disposing of their own vehicles or vehicles used in their business;
 - b. Public officers while performing their official duties - This exemption includes such activities as the sale of vehicles owned by a governmental entity or the sale of vehicles seized by public officers while performing their official duties;
 - c. Receivers;
 - d. Trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment of any court;
 - e. Banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business. Pawnshops are not considered loan agencies and therefore would be required to have a dealer license;
 - f. Motor vehicle brokers - A motor vehicle broker is defined by law as any person engaged in the business of offering to procure or procuring motor vehicles for the general public, or who holds himself out through solicitation, advertisement, or otherwise as one who offers to procure or procures motor vehicles for the general public, and who does not store, display, or take ownership of any vehicles for the purpose of selling such vehicles;
 - g. Motor vehicle rental and leasing companies that sell motor vehicles to licensed motor vehicle dealers on a wholesale basis. In such cases, the fact of sale indicates that the vehicles being sold are no longer being used as rental or leased vehicles. The exemption applies only if off-lease vehicles are being sold on a wholesale basis, to a licensed dealer. Rental and leasing companies that retail to the public after the lease has expired or offer the customer the option to purchase the vehicle when the lease expires will need an independent dealer's license.
 - h. A motor vehicle acquired by foreclosure or by operation of law; and
 - i. The sale of twenty-five or fewer trailers, in a twelve-month period, that weigh more than 2,000 lbs., and are required to be titled.

NOTE: A person must apply for an independent dealer's license if they sell over 25 trailers in a twelve-month period that weigh more than 2,000 lbs each. However, the Department does not license the manufacturers of such trailers. Trailer manufacturers who manufacture in two stages must provide their dealers or customers the 1st stage Manufacturer's Certificate of Origin (MCO) and 2nd stage MCO for the purpose of titling and registering the units at the Tax Collector's Office. The 2nd stage MCO must state the length of the trailer with hitch and without hitch.

2. WHEN LICENSING IS NOT REQUIRED FOR MOBILE HOMES OR RECREATIONAL VEHICLES

320.77(1)(a), 320.771(1)(a), F.S.

- a. Banks, credit unions and finance companies that acquire mobile homes or recreational vehicles incidental to their regular business.
- b. Mobile home rental and leasing companies that sell mobile homes or recreational vehicles to dealers possessing a mobile home or recreational vehicle dealer license.
- c. A recreational vehicle dealer license is not required in order to sell camping trailers (rag top/pop-up) to the public.

C. CONSEQUENCES OF NOT OBTAINING A LICENSE WHEN ONE IS REQUIRED

320.27(2), 320.27(8), 320.27(11), 320.27(12), 320.77(11), 320.77(12), 320.771(12), 320.771(13), F.S.

Any person dealing in motor vehicles, mobile homes, or recreational vehicles, who is required to have a dealer license, but who fails to obtain a license, is subject to a number of different penalties. These can include the issuance of an injunction by a court of competent jurisdiction, by the filing of an unfair and deceptive trade practices complaint with the State Attorney or the Attorney General's Office (that may lead to fines of up to five thousand dollars per violation and a cease and desist order), or the filing of criminal charges amounting to a second degree misdemeanor for violation of the licensing requirements. Any vehicles that are displayed for sale by an unlicensed individual, at an unlicensed location, could also be in violation of s. 316.1951, F.S. Violation of this statute may cause the vehicle to be removed by a law enforcement officer, local government agency code compliance/enforcement official or Bureau of Motor Vehicle Field Operations Compliance Examiner.

D. TYPES OF LICENSES ISSUED

212, 320.27, 320.642(6), 320.71, 320.77, 320.771, F.S.

The Department issues a number of categories of dealer licenses. The license prefix designations and descriptions are:

1. VF - This is the prefix for a franchised motor vehicle dealer. This type of license allows a licensee to sell new motor vehicles under an established agreement with a manufacturer, importer or distributor. A franchise dealer is licensed by the Department to sell specific line-makes in the State of Florida that are manufactured, imported or distributed by licensed manufacturers, distributors or importers. Franchise dealers sell new motor vehicles, electric or gas powered motorcycles, low speed vehicles, mini-trucks and tri-vehicles under an agreement with the manufacturer. A franchise dealer is licensed by the Department to sell specific line-makes in the State of Florida that are manufactured, imported or distributed by licensed manufacturers, distributors or importers.

Please Note: A franchise dealer who wants to sell self propelled or non-self propelled recreational vehicles must apply for a recreational vehicle dealer's license. A franchise dealer who wants to sell new mobile homes must apply for a mobile home dealer license.

A franchise dealer license is required in order to sell electric motorcycles above 2 bhp, 1492 watts or gas powered motorcycles with an engine displacement above 50 cc's.

A franchise dealer license is not required if a person sells electric motorcycles with an engine displacement of 2bhp or less, 1492 watts or less or gas powered motorcycles with an engine displacement of 50 cc's or less.

The manufacturer, importer or distributor of motorcycles must be licensed by the Department regardless of the displacement.

2. SF – Any franchised dealer wishing to operate their service and repair facility at a location other than their licensed dealership must also be licensed to operate the service only facility. No vehicle sales either new or used are permitted at this facility. A service facility is always associated with a franchise license and cannot exist without the dealer being licensed as a franchise dealer.
3. VI - This indicates that the licensee is an independent dealer who is buying, selling or dealing in used motor vehicles as defined in ss. 320.01(1)(a), Florida Statutes. An independent dealer who wants to sell self propelled or non-self propelled recreational vehicles must apply for a recreational vehicle dealer's license.

4. VW - A license with this prefix is issued to one who is buying, selling, or dealing in motor vehicles only at wholesale with other licensed dealers. A licensed wholesale motor vehicle dealer is licensed to engage exclusively in the business of buying, selling or dealing in motor vehicles at wholesale or motor vehicle auctions. **NOTE:** Licensed wholesale motor vehicle dealers shall not sell or auction a vehicle to any person who is not a licensed motor vehicle dealer, and shall not have the privilege of the use of dealer license plates. A wholesale dealer is exempt from display provisions, but shall maintain an office space wherein records are kept in order that those records may be inspected.
5. VA - Auctions that sell motor vehicles and recreational vehicles, by the bid process, where buyers are licensed motor vehicle dealers, must obtain a VA license. Auctions that plan to sell motor vehicles retail are required to be licensed as an independent dealer with a VI prefix license.

Please note: Licensed auction dealers shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

6. SD – This license prefix is issued to any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.

This means that a salvage dealer can sell the vehicles in the salvaged or wrecked state. However, if the salvage dealer rebuilds the vehicle to retail or wholesale they will need an independent dealer’s license.

7. DH - This designation is for those persons licensed as mobile home dealers. A mobile home dealer may also buy, sell, deal, or broker in recreational vehicles after applying for a recreational vehicle endorsement to their license with the Department. However, if a mobile home dealer deals exclusively in mobile homes, such dealer may not exercise the privilege of obtaining and using dealer license plates. A “park trailer”, as defined in s. 320.01(b)(7), F.S., is a recreational vehicle. Therefore, a mobile home dealer who wishes to sell park models or recreational vehicles must also meet the requirements for garage liability insurance. A licensed mobile home dealer can sell both mobile homes and recreational vehicles in their main location and in the supplemental locations provided they submit garage liability coverage. However, if a licensed mobile home dealer wishes to open a supplemental location exclusively for the sale of recreational vehicles; then they would have to apply for a recreational vehicle dealer’s license. As per section 320.771(8), Florida Statutes, a mobile home dealer may apply to the Department for authority to sell recreational vehicles at no additional fee.

NOTE: Pursuant to section 320.77(1)(h), Florida Statutes, a licensed mobile home dealer is allowed to display and offer for sale mobile homes in a mobile home park.

8. **BH** - This designation is for persons licensed as used mobile home brokers. A mobile home broker deals exclusively in used mobile homes and acts as the middleman on behalf of the owner or seller of a used mobile home which is for sale, or who assists or represents the seller in finding a buyer for a used mobile home. A mobile home broker never takes possession of a mobile home, and must meet all licensing requirements of a mobile home dealer with the exception of the display space requirement. A used mobile home broker may also sell used recreational vehicles after applying for a recreational vehicle endorsement to their license with the Department; however, the broker will be required to obtain a garage liability insurance coverage.
9. **RV** - Any person dealing exclusively in buying, selling, or brokering new recreational vehicles (self-propelled and non-self-propelled) must meet the licensing requirements of a recreational vehicle dealer with this prefix. A recreational vehicle dealer may not sell mobile homes. A recreational vehicle dealer with an "RV" prefix is licensed to sell both new and used recreational vehicles at their licensed location. A recreational vehicle dealer with this prefix is licensed by the Department to sell specific line-make(s) in the state of Florida that are distributed by licensed recreational vehicle manufacturers, distributors, or importers. A recreational vehicle dealer license is not required to sell camping trailers (rag top/pop-up) to the public.
10. **RU**- Any person dealing exclusively in buying and selling used recreational vehicles (self-propelled and non-self-propelled) would obtain a recreational vehicle dealer license with this prefix. A recreational vehicle dealer may not sell mobile homes. A recreational vehicle dealer license is not required to sell camping trailers (rag top/pop-up) to the public.

NOTE: Pursuant to 320.27 (c) Florida Statutes, "...A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle as described in section 320.01 (1) (b) 1, 6 and 8, Florida Statutes, acquired in exchange for the sale of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to section 320.771, Florida Statutes.

11. **NI, NH, NR** – Any person, who is a non-resident of the state, who does not have a dealer's contract from the manufacturer or manufacturer's distributor of motor vehicles, mobile homes, or recreational vehicles authorizing the sale thereof in definite Florida territory, and who sells or engages in the business of selling motor vehicles at retail in the state shall register with the Department of Revenue for a sales tax dealer registration number and comply with Chapter 212, F.S., and pay a license tax of \$2,000 per annum in each county where such sales are made. This tax is in addition to the licensing fee.

NOTE: An applicant for a motor vehicle dealer's license will be considered a Florida resident dealer provided they meet all the licensing requirements as per section 320.27, Florida Statutes, have a physical location in the state of Florida that meets the location requirements of Rule 15C-

7.003(4), Florida Administrative Code (FAC), and the business is registered with the Division of Corporations, Secretary of State, to conduct business in the state of Florida. An applicant is not considered a non-resident because they have registered the business with the Division of Corporations as a Foreign Corporation/LLC/Partnership, or has started a company under the laws of another state or country or submits Articles of Incorporation registered in another state.

This means that all applicants for a motor vehicle dealer's license in the state of Florida will be considered as Florida resident dealers as long as they meet the licensing requirements as required by Florida Law.

Licensed auction dealers can sell recreational vehicles to licensed recreational vehicle dealers only.

A licensed new or used recreational vehicle dealer may, at retail or wholesale, sell a motor vehicle, as described in s. [320.01\(1\)\(a\)](#), Florida Statutes, acquired in exchange for the sale of a recreational vehicle, if such acquisition is incidental to the principal business of being a recreational vehicle dealer. However, a recreational vehicle dealer may not buy a motor vehicle for the purpose of resale unless licensed as a motor vehicle dealer pursuant to s. [320.27, Florida Statutes](#).

E. LICENSING PERIODS

320.27(4)(a), 320.77(6), 320.771(6), F.S.

All dealer licenses are issued for a maximum period of one year. The effective and expiration dates for the various categories of licenses are staggered. The licensing periods are as follows:

Franchised motor vehicle dealer (VF)	January 1 - December 31
Franchised motor vehicle service facility (SF)	January 1 - December 31
Independent motor vehicle dealer (VI)	May 1 - April 30
Wholesale motor vehicle dealer (VW)	May 1 - April 30
Motor vehicle auction (VA)	May 1 - April 30
Salvage motor vehicle dealer (SD)	May 1 - April 30
Mobile home dealer (DH)	October 1-September 30
Mobile home broker (BH)	October 1-September 30
Recreational vehicle dealer (RV)	October 1-September 30
Used Recreational vehicle dealer (RU)	October 1-September 30
Non-resident dealer (NI, NH, NR)	January 1 – December 31

Even if a license is issued in the middle or near the end of the annual licensing period, the license will expire on the date all licenses in that same category expire. As noted below, license fees will not be prorated. Thus, an applicant seeking an initial license near the end of a license period may wish to delay the effective date of the license until the beginning of the new license year. **However,**

applicants are reminded that they may not engage in business until the license becomes effective. To do otherwise is a serious violation of the law and, of course, title work will not be processed.

F. INITIAL LICENSING FEE

215.26, 320.27(3), 320.71, 320.77(4), 320.771(4), F.S.

The fee for an initial dealer license in any of the motor vehicle license categories previously described is \$300. The fee for a license as a mobile home or recreational vehicle dealer is \$340; \$40 of which is used to fund a Mobile Home and Recreational Vehicle Protection Trust Fund.

Pursuant to section 215.26, Florida Statutes, a license fee is non-refundable unless the Department determines that one of three exceptions exist; either the applicant sent duplicate money in error, or an overpayment was made in error, or the fee accompanying an application was submitted for an activity which is not required to be licensed or is specifically exempt from being licensed. If a license is denied for any other reason, the fee is non-refundable. A license fee may not be prorated for a portion of a licensing period. All non-resident applicants are also required to pay a license tax of \$2,000 for each county in which they do business. This tax is in addition to any required licensing fees.

G. GENERAL LICENSING REQUIREMENTS

There are a number of general requirements that every applicant for a dealer's license must satisfy as a prerequisite to having a license issued. Prospective applicants are urged to consider these carefully before making application, as these requirements involve a commitment of money and time.

1. MOTOR VEHICLE DEALER LICENSE APPLICANTS

320.27, 320.77, 320.771, F.S.

The following items are generally the most difficult or time consuming to obtain:

a. SURETY BONDS

Applicants are required to provide a surety bond in the amount required for the type of license for which they are applying. The original bond must be issued to expire at the end of the licensing period. Subsequent bonds or continuation certificates must be issued concurrent with the licensing period. The surety bond must be issued in the exact name, to include all fictitious trade (DBA) names and executed on a form provided by the Division of Motorist Services. Substitute forms will not be accepted. There must be no alterations, erasures or "white out" on the form. The name of the business and signature of the principal or licensee is required on the bond. The names, addresses and telephone numbers

of the bond company and surety agent are also required on the bond. The bond company must also affix their seal. The original bond form and power of attorney form from the bond company must be submitted with the dealer license application (to access Dealer License Bond forms HSMV 86018, HSMV 86019, and HSMV 86020, visit the Department's website at <http://www.flhsmv.gov/html/forms.html>.)

If during the licensing year the dealership cancels its surety bond and obtains a replacement bond with another firm, the dealer must provide the new original surety bond to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for regulating the dealership IMMEDIATELY. Continuous surety bond coverage is required through the licensing year. Replacement bonds must have an effective date on or prior to the cancellation date of the previous bond. Gaps in surety bond coverage are not acceptable. Bond Riders are acceptable to indicate any change or correction. Although a new bond is required each year, the assurance provided by the bond remains in force and effect until the statutes of limitations prohibit claims of any nature from being filed against the bond. This time period is normally five years following the year for which the bond was issued. The surety bond covers transactions at all locations for the dealership.

<u>Type of License</u>	<u>Amount of Bond</u>	<u>Term of Bond</u>
*Motor Vehicle Dealer	\$25,000	May 1-April 30
*Franchise Dealer	\$25,000	Jan 1-Dec 31
*Service Facility	Not required	Jan. 1-Dec 31
*Mobile Home Dealer	\$25,000	Oct 1-Sept 30

<u>Type of License (cont'd)</u>	<u>Amount of Bond</u>	<u>Term of Bond</u>
*Mobile Home Dealer with more than 4 supplemental locations	\$50,000	Oct 1-Sept 30
*Recreational Vehicle Dealer	\$10,000	Oct 1-Sept 30
*Recreational Vehicle Dealer with more than 4 supplemental locations.	\$20,000	Oct 1-Sept 30

b. IRREVOCABLE LETTER OF CREDIT

Only motor vehicle dealers, mobile home dealers, and mobile home manufacturers may submit an irrevocable letter of credit. Motor vehicle and mobile home dealer applicants may provide an irrevocable letter of credit issued by a Florida bank in the amount of \$25,000. Applicants for a mobile home manufacturer's license may provide an irrevocable letter of credit issued by a Florida bank in the amount of \$50,000. The letter of credit must be submitted on forms HSMV 86057, HSMV 86058, or HSMV 86059 Irrevocable Letter of Credit according to the license type (visit the Department's website at <http://www.flhsmv.gov/html/forms.html> to access these forms). Substitute forms cannot

be accepted. Addendums or Riders are not acceptable for Irrevocable Letters of Credit. An Irrevocable Letter of Credit continuation certificate is acceptable.

The following items are required on the letter of credit:

1. The bank must assign a number;
2. The name, address, and telephone number of the bank;
3. Signature and printed name of bank official authorizing issuance;
4. Bank seal must be affixed. If the bank does not have a seal, the bank's rubber stamp is acceptable;
5. Must be issued in the exact name in which the dealership is applying for license including fictitious trade names;
6. Must be signed by the principal of the business;
7. Dealership's address is required on the letter of credit; and
8. Irrevocable letters of credit shall be for the licensing period, and a new irrevocable letter of credit or continuation certificate shall be delivered to the Department by the dealer at the beginning of each license period.

Although a new letter of credit or a continuation certificate is required each year, the assurance provided by the irrevocable letter of credit remains in force and effect until the statutes of limitations prohibit claims of any nature from being filed against it. The letter of credit covers transactions at all locations. This time period is normally five years following the year for which the letter of credit was issued.

If during the licensing year the dealership cancels its letter of credit, and obtains a replacement letter of credit with another firm, the dealer must provide the new original irrevocable letter of credit IMMEDIATELY to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for regulating the dealership.

Application forms for initial licensing, surety bond forms and irrevocable letters of credit can be accessed at the Department's website at <http://www.flhsmv.gov/html/forms.html>.

c. REGARDING SURETY BONDS AND IRREVOCABLE LETTERS OF CREDIT

95.11(2)(b), F.S.

When applying for a surety bond or irrevocable letter of credit, dealer license applicants should understand the Bond Company or bank may require collateral as a condition of underwriting the bond or letter of credit. In this case your bond company or bank may not be willing to release your collateral unless the original bond or letter of credit is returned. There is a five-year statute of limitations during which a claim may be filed for the licensing year of a bond or letter of credit. What does this mean to an applicant? If you cease doing business as a dealer and your bond or irrevocable letter of credit has been underwritten based on collateral, the bond company or bank may choose not to release your collateral for five years. Each continuation certificate issued and underwritten on the same collateral adds another year to the time a bond company or bank may retain the collateral.

The Department retains the originals of all surety bonds and irrevocable letters of credit for a period of five years after the expiration date of the letter of credit. Once the retention schedule is met, the letters are destroyed.

Section 95.11(2)(b), Florida Statutes, provides a limitation to file claims within five years. This means claims may be filed against the surety bond or letter of credit for up to five years after the licensing year for which the letter of credit was written.

The Department will not release any surety bond company or bank from liability. Please keep this in mind when applying for a bond or irrevocable letter credit. Please contact your bank or the surety bond company regarding their policies.

d. LOCATION AND FACILITY REQUIREMENTS

15C-7.003(4), F.A.C., 320.27, F.S.

Proposed location and facilities, which would house the licensed place of business, must conform with statutory and rule requirements. Those location requirements include, but are not limited to the following:

No motor vehicle or recreational vehicle dealer office shall be maintained from a residence. The office must be in a permanent structure. The office must have a minimum of 100-square feet of interior floor space excluding any hallways, closets or restrooms and a minimum 7' ceiling.

Prospective applicants are advised to contact the regional office serving that area and ask for an inspection of the location before committing time and money at a location that may not meet state requirements. Location and facility requirements are contained in Rule 15C-

7.003(4), Florida Administrative Code, (F.A.C.). To view a copy of Rule 15C-7, F.A.C., visit the Department of State's website at <https://www.flrules.org/default.asp>.

Mobile Home applicants' location and facility requirements are somewhat less restrictive than the requirements for a motor vehicle dealership; certain requirements are imposed and should be verified with the local regional office.

e. ZONING AND OCCUPATIONAL LICENSE REQUIREMENTS

The Department does not regulate zoning or issuance of occupational licenses. These are governed strictly at the county or municipal level in Florida. Failure to meet such requirements may be in violation of county or municipal ordinances and refusal of a city or county to issue an occupational license which may result in the denial of a dealer license. In addition, should it be discovered that the location does not meet city or county zoning requirements, the Department will advise the concerned authorities since the safety and welfare of the motoring public is the responsibility of the Department.

f. CORPORATE/PARTNERSHIP INFORMATION

If a dealership is to be operated by a corporation, a copy of the articles of incorporation, a copy of the minutes reflecting current officers, and proof of registration of the corporate name with the Secretary of State, Division of Corporations office **MUST** be submitted with the application. If a new corporation is formed for establishing the dealership and all corporate officers on the dealership application form are exactly the same as those identified in the articles of incorporation, then a copy of the minutes is not required. If there is a partnership agreement, a copy of the partnership agreement should be submitted. Anytime there is a change to the corporation or its officers, the dealer must submit a corporate update application on form HSMV 86056 to their Regional Office or to the Compliance Examiner. On-line access for Division of Corporations is available at www.sunbiz.org. Form HSMV 86056 can be downloaded from the Department's website at <http://www.flhsmv.gov/html/forms.html>.

g. LIMITED LIABILITY COMPANIES (LLC)
608.402(19), (22), 608.407, 608.422, F.S.

Limited liability companies are legal entities similar in purpose to corporations with certain business advantages that may be unique to the members forming the entity. Like corporations, a limited liability company (LLC) must register with the Secretary of State, Division of Corporations. All Limited Liability Companies are member-managed entities unless the articles of organization or the operating agreement provide that it is a manager-managed entity.

When a LLC is member-managed; all of the members are agents of the LLC and have the ability to legally bind the LLC. Each member is required to appear on the dealer license application and submit proof of electronic fingerprint from a FDLE authorized service provider for the criminal background check. In the case of a manager-managed LLC, the manager(s) are required to appear on the dealer license application, submit a submit proof of electronic fingerprint from a FDLE authorized service provider for the criminal background check. A list of the service providers can be accessed at the Department's website at <http://flhsmv.gov/dmv/FDLEApprovedServiceProviderListForElectronicFingerprints.pdf>.

An LLC may have other corporations, Limited Liability Companies, Limited Partnerships, etc. as members. The officers from these companies that are going to be authorized signatories in the LLC must be listed on the dealer license application and will have to be electronically fingerprinted by a FDLE authorized service provider. Proof of electronic fingerprint from the authorized FDLE service provider must be submitted with the application.

An LLC applying for a motor vehicle dealer license must provide the Department with copies of both the articles of organization and the operating agreement. The operating agreement is an important document. This is an agreement that is signed by the members of the LLC before the articles of organization are registered and covers clauses regarding the discontinuation of the dealership and surrender of dealer license. If a LLC has been formed without an operating agreement, an affidavit from the dealer to that effect must be collected with the application.

On-line access for Division of Corporations is available at www.sunbiz.org.

h. LIMITED LIABILITY PARTNERSHIPS, LLP
620.8105, 620.9001, F.S.

If the partnership is a limited partnership, which may be comprised of two or more partners and/or one or more corporations or companies, a breakdown of the structure of the limited partnership must be submitted.

A limited partnership may file a partnership registration statement with the Department of State (s. 620.8105, F.S.). Limited Liability Partnerships may file a qualification with the Department of State (s. 620.9001 F.S.). A copy of acceptance of the partnership registration must be submitted with the application for a dealer license along with the partnership agreement.

Section 620.9002, F.S., requires that the name of a limited liability partnership must end with "Registered Limited Liability Partnership", "Limited Liability Partnership", "Limited Partnership", or Limited Liability Limited Partnership", or "RLLP", "LLP", "LP", or "L.P.", or "LLLL" abbreviations.

In the case of two corporations forming a limited liability partnership the dealer agreement may designate a General Partner. This person will be the only person that is required to be on the application and undergo the background check.

i. FICTITIOUS NAME REGISTRATION

A fictitious name or doing business as (d/b/a) name means any name under which a person transacts business in this state, other than their legal name. Business means any enterprise or venture, in which a person sells, buys, exchanges, barter, deals, or represents the dealing in anything or article of value, or renders services for compensation.

Florida Statutes require that any business operating under any fictitious name to register such fictitious name with the Division of Corporations, Florida Department of State. Proof that the corporation has filed a fictitious name registration with the Secretary of State must be submitted with the dealers' application. The fictitious name may be filed and paid for on-line at the Florida Department of State, Division of Corporations website at <http://www.sunbiz.org>.

NOTE:

Section 865.09(2)(a), Florida Statutes, defines a fictitious name as any name under which a person transacts business in this state, other than the person's legal name.

A legal name is a person's given name or the name of a properly registered business entity, such as a corporation, limited liability Company (LLC) or limited partnership (Ltd.). A fictitious name is required if a person is transacting business under a name other than their legal name, corporate, LLC, or Ltd. name. A sole proprietor would need to register a fictitious name if the name of their business is other than their legal name. JOHN DOE LAWN SERVICE would require a fictitious name registration as LAWN SERVICE is not part of John Doe's legal name.

If a mobile home dealership is located in a mobile home park, and the dealer wishes to advertise and do business under the name of the mobile home park, this must be recorded as a fictitious name. The dealership must advertise this as a fictitious name and this fictitious name must be added to the surety bond. The fictitious name is only valid for five (5) years.

j. LEASE/OWNERSHIP

If the property on which the dealership is to be located is not owned by the applicant, but rather, is leased, a true copy of the lease, dated and signed by all parties to the lease, must be submitted with the application for licensure. The lease must be a current lease and must indicate the names of the lessor and lessee, signed by them, and must have the address with zip code that is indicated on the application or legal description as the physical location of the dealership.

Fictitious names need not be indicated on the lease agreements. The licensee name as indicated on the application and Division of Corporations must be stated on the lease agreements. The licensee could be a corporation, LLC, partnership or sole proprietorship. In the case of sole ownership and partnerships, the name of all principals and the fictitious trade d/b/a name(s) are required on the lease agreement. If the property on which the dealership is to be located is owned by the applicant, a copy of the deed, or a tax statement, or other evidence of ownership must be submitted with an application for licensure.

If the property on which the dealership is to be located is owned by one of the partners or one or more of the corporate officers, a lease will be required between the actual owner(s) of the property and the entity that is applying for the dealer's license.

If the property is owned by two individuals and only one individual is applying for a license, a lease will be required between the two owners as lessor (owners of property) and the lessee/dealership (the one individual applying for license).

Example:

Mary and John Jones - Owner of property. John Jones d/b/a "A-1 Used Cars - dealership/applicant". The lease would be between Mary and John Jones as landlord/lessor and John Jones d/b/a A-1 Used Cars/lessee/dealership.

John Jones - owner of property and President of Corp. ABC INC. d/b/a "A-1 Used Cars". ABC Inc. d/b/a. A-1 Used Cars - dealership/applicant. The lease would be between John Jones - Owner of Property - landlord and ABC Inc. d/b/a A-1 Used Cars.

The lease must include the term of the lease and the complete address. The address must be the address as assigned by the county, zoning, or post office. The address of the lessor must be written on the lease. The lease agreement can state the complete street address or the legal description of the location.

k. ELECTRONIC FINGERPRINTS

320.27(3), F.S.

Pursuant to 320.27(3), Florida Statutes, "Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the Department for the purpose of determining any prior criminal record or any outstanding warrants."

All applicants must submit with their application, proof of electronic fingerprint from a FDLE authorized service provider for the criminal background check. A list of FDLE authorized service providers can be accessed at the Department's website at <http://flhsmv.gov/dmv/FDLEApprovedServiceProviderListForElectronicFingerprints.pdf>. Proof of electronic fingerprint from an authorized FDLE service provider must accompany each initial license application for all sole owners, general partners, or corporate officers and directors listed on the application. The fingerprints will be processed through the Florida Department of Law Enforcement and the Federal Bureau of Investigation. The processing time will not delay the issuance of a license. Proper completion of the electronic fingerprint request requires all required information be completed. The dealership name and address should be listed under "employer and address". The place of birth must include the two digit code for states taken from the "place of birth table" or if the place of birth is in another country, the two digit code taken from the "citizenship table" (visit the Department's website at <http://www.flhsmv.gov/html/forms.html> to access form HSMV 86203, Fingerprint Request Instruction Guide). If the applicant was previously fingerprinted for a dealer license application and has an active dealer license, a new fingerprint is not required. This information can be checked by submitting your old dealer license number to your local Bureau of Motor Vehicle Field Operations, Regional Office. An applicant who has been convicted of a felony or equivalent charge anywhere, or has been convicted of a felony or first degree misdemeanor for a violation of any provision of Chapters 319 or 320, Florida Statutes, or has been convicted of a felony or first degree misdemeanor in any other jurisdiction for violation of motor vehicle laws (excluding parking and traffic laws) must provide documentation showing the final disposition.

I. FEDERAL EMPLOYER'S IDENTIFICATION NUMBER

119.092, F.S.

An Employer Identification Number (EIN), also known as Federal Tax Identification Number (FEIN), is a nine digit number that the Internal Revenue System (IRS) assigns business entities. Every organization having a bank account and sole proprietors, partnerships, limited liability companies and corporations must have a Federal Identification Number (FEIN). A federal employer's identification number is required of all employers who have

one or more employees. If there are no employees, an affidavit to that effect must accompany the application. A number may be obtained through the Internal Revenue Service. The federal employer's identification number must be entered on the license application. The affidavit is a part of the application (visit the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf> to access form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer). A federal employer's identification number is mandatory for a corporation and for an LLC even if it is a single member.

Sole proprietors and partnerships must have a FEIN if they have one or more employees.

m. GARAGE LIABILITY INSURANCE

320.27(3), 320.771(3)(j), F.S.

Section 320.27(3), Florida Statutes, states, " Such application shall contain such other relevant information as may be required by the department, including evidence that the applicant is insured under a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection. Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy. Such policy shall be for the license period, and evidence of a new or continued policy shall be delivered to the department at the beginning of each license period."

The above means:

1) Independent dealers (VI), Auction dealers (VA), Wholesale dealers (VW), and Salvage dealers (SD) have the option to submit:

- A garage liability insurance certificate which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection; **OR**
- A general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.

2) Franchise dealers (VF), recreational vehicle dealers (RV/RU) and Mobile home dealers with recreational vehicle endorsement must submit a garage liability insurance certificate which shall include, at a minimum, \$25,000 combined single-limit liability

coverage including bodily injury and property damage protection and \$10,000 personal injury protection.

Garage liability insurance coverage must be maintained continuously throughout the license period. Proof of liability insurance, with policy number, must be submitted by the dealer with the application.

Although the laws that govern insurance requirements do not mandate Personal Injury Protection on motorcycles, the Department requires the dealer license applicant to submit a garage liability insurance policy which includes at a minimum; \$25,000 combined single limit liability coverage including bodily injury, property damage protection and \$10,000 personal injury protection. This is because even if the dealer only intends to sell motorcycles, the dealer may accept used cars as trade-in from customers.

Pursuant to section 320.771(3)(j), Florida Statutes, all recreational vehicle dealers (RV and RU) are required to be insured under a garage liability insurance policy, which shall include, at a minimum, \$25,000 combined single limit liability coverage including bodily injury, property damage protection and \$10,000 personal injury protection.

Note: An electronic signature on a Garage Liability Insurance Certificate is acceptable.

If during the licensing year the dealership cancels its garage liability policy and obtains a replacement policy with another insurer, the dealership must IMMEDIATELY notify the applicable Motor Vehicle Field Office of this information. The law requires the coverage to be maintained continuously. Failure to do so will result in an administrative action being filed against the dealership which could result in a fine, or suspension or revocation of the license.

Garage liability insurance at a minimum, \$25,000 combined single limit liability coverage including bodily injury, property damage protection and \$10,000 personal injury protection is also required of mobile home dealers and brokers who sell recreational vehicles. A park model, as defined in ss. 320.01(1)(b)(7), F.S., is a recreational vehicle. Therefore, a mobile home dealer or broker who wishes to sell park models must also meet the requirement for garage liability insurance. The dealer must also submit an application to the motor vehicle field office for an RV endorsement to be added to their license.

Multiple licenses held by the same dealer operator and owner at the same location or at different locations can be covered under the same garage liability insurance policy. For example, if a dealer owner/operator has two licenses at the same location, the garage liability insurance coverage shall include, at a minimum, \$25,000 combined single limit liability coverage including bodily injury, property damage protection **per business** and a single amount of \$10,000 personal injury protection (PIP). What this means is that the

coverage must show at a minimum \$50,000 combined single limit liability coverage including bodily injury, property damage protection for the two dealership licenses and \$10,000 PIP. A PIP of \$10,000 is sufficient as it is per occurrence. The Garage Liability Insurance Certificate must list the names of the dealerships owned by the person that are covered in the policy.

If a dealer owns and operates several dealerships at different locations, one garage liability insurance policy at a minimum, \$25,000 combined single limit liability coverage including bodily injury, property damage protection **per business** and a single amount of \$10,000 personal injury protection (PIP). For example, if a dealer owner/operator has four dealership licenses at different locations, the garage liability insurance policy must cover all four dealerships owned by the dealer, at a minimum \$100,000 combined single limit liability coverage including bodily injury, property damage protection and a \$10,000 personal injury protection (PIP). A PIP of \$10,000 is sufficient as it is per occurrence. The Garage Liability Insurance Certificate must list the names of the dealerships owned by the person that are covered in the policy.

n. TRAINING REQUIREMENT

320.27(4)(a)(b), F.S.

Each initial license application received by the Department for a dealer license must be accompanied by verification that within the preceding six months, the applicant (owner, partner, officer, or director of the applicant or a full-time employee of the applicant that holds a responsible management-level position) has successfully completed training conducted by a licensed motor vehicle dealer training school.

Pursuant to section 320.27(4)(a), Florida Statutes, any applicant for a new franchised motor vehicle dealer license who has held a valid franchised motor vehicles dealer license continuously for the past two years and who remains in good standing with the Department is exempt from the pre-licensing training requirements.

Pursuant to section 320.27(4)(b), Florida Statutes, any applicant who has held a valid motor vehicle dealer's license continuously within the past two years and who remains in good standing with the Department is exempt from the pre-licensing training requirements. What this means is that the dealer applicant should have held a valid license within the past two years and remain in good standing.

Please note: The pre-licensing exemption for dealers in good standing does not apply to mobile home and recreational vehicle dealers.

All applicants for a motor vehicle dealer license, who were not previously licensed, must complete and provide proof that the applicant or one or more designated employee has

attended a privatized dealer-training course. Applicants are required to schedule their own attendance at the dealer-training seminar. Applicants may obtain the list of names and contact information for the private schools from the Department's website at http://flhsmv.gov/dmv/L_Dealer_Trng_Sch.pdf.

Pursuant to sections 320.77(6) and 320.771(6), Florida Statutes, all mobile home dealers, mobile home brokers and recreational vehicle dealers must submit proof with the initial application that within the preceding six months, the applicant or one or more of their designated employees has attended a training and information seminar conducted by the Department or by a private provider approved by the Department.

Pursuant to section 320.27(4)(a), Florida Statutes, "Each independent dealer shall certify that the dealer (owner, partner, officer, or director of the licensee, or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuing education prior to filing the renewal forms with the Department. Such certification shall be filed once every two years. The continuing education shall include at least two hours of legal or legislative issues, one hour of Department issues, and five hours of relevant motor vehicle industry topics. Continuing education shall be provided by dealer schools licensed under paragraph (b) either in a classroom setting or by correspondence."

o. SALES TAX NUMBER

15C-7.004, FAC.

A state sales tax number is required on an application for a motor vehicle dealer license. A number may be obtained from the Florida Department of Revenue. The Florida Department of Revenue issues a sales tax number for each location of the dealership.

NOTE: Pursuant to rule 12A-1.066, FAC, "every agent, auctioneer, **broker**, or other person who is engaged in any business activity of making sales of tangible personal property with the object of private or public gain, benefit, or advantage, either direct or indirect, who sells at retail, or who has in his possession for sale at retail, is required to register as a dealer under Chapter 212, Florida Statutes, and collect and remit any applicable tax on the total retail sales price of any taxable item of tangible personal property without any deduction for any expense, such as storage, commission, or repairs." It is immaterial that:

- The auctioneer, broker, factor, or other person may not have possession of the tangible personal property.

In plain language, a mobile home broker is responsible for collecting the sales tax on each sale and remitting the amount to the Department of Revenue.

p. SALE OF RECREATIONAL VEHICLES BY MOTOR VEHICLE DEALERS

320.27(1)(c), F.S.

Motor vehicle dealers may accept recreational vehicles as a trade-in from a customer. Such recreational vehicles may be sold by a motor vehicle dealer at the retail or wholesale level. A motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless they are licensed as a recreational vehicle dealer pursuant to s. 320.771, F.S., and using the dealership's RV or RU prefix license number.

q. SALE OF RECREATIONAL VEHICLES BY MOBILE HOME DEALERS

320.77(1)(a), 320.771(8), F.S.

Any mobile home dealer licensed pursuant to section 320.77, Florida Statutes, may apply to the Department for authority to sell any recreational vehicle. The mobile home dealer must file the dealer license application and will be governed by the licensing provisions contained therein. No additional license fees or bond will be required for issuance of this endorsement to the mobile home dealer's license, and both mobile homes and recreational vehicles can be sold from the same location. However, garage liability insurance at a minimum, \$25,000 combined single limit liability coverage including bodily injury, property damage protection and \$10,000 personal injury protection is required of mobile home dealers and brokers who sell recreational vehicles and must be submitted with their application to the Motor Vehicle Field Office responsible for the dealership.

Please note: If the mobile home dealer wants to open an additional lot exclusively for the sale of recreational vehicles, they must apply for a recreational vehicle dealer license.

r. SALE OF MOTOR VEHICLES BY RECREATIONAL VEHICLE DEALERS

320.771, F.S.

A recreational vehicle dealer may sell motor vehicles accepted as trade-ins. However, if the recreational vehicle dealer wishes to engage in the business of selling motor vehicles they must apply for an independent motor vehicle dealer license.

s. REGISTRATION OF MOBILE HOME DEALERS SALESPERSON(S)

320.77(1)(c)(1), 320.77(2), F.S.

Every mobile home dealer must register with the Department, within 30 days after the date of hire, the name, local residence address, and home telephone number of each person newly employed by the licensee as a mobile home salesperson. A licensee may not provide a post office box in lieu of a physical residential address. Form HSMV 84045,

Registration of Mobile Home Dealer's Salesperson(s) must be used by a mobile home dealer to add new hires with the Division of Motorist Services, Regional Office. Form HSMV 84045 can be accessed on-line at the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/84045.pdf>.

Every mobile home dealer must notify the Department of the termination or separation from employment of each mobile home salesperson employed by the dealer on a quarterly basis (**March 31, June 30, September 30, and December 31**). Form HSMV 84045, Registration of Mobile Home Dealer's Salesperson(s) must be used by a mobile home dealer to update salesperson(s) status information with the Division of Motorist Services, Regional Office.

Each time a mobile home salesperson employed by a licensee changes their residence address, the salesperson must notify the Division of Motorist Services, Regional Office within 20 days after the change using form HSMV 84045, Registration of Mobile Home Dealer's Salesperson(s).

t. VEHICLE SALES AT MOTOR VEHICLE AUCTIONS
320.27(1)(4) F.S.

A licensed motor vehicle auction dealer may sell motor vehicles only to licensed motor vehicle dealers. The auction must obtain documentation that all of its customers are licensed motor vehicle dealers regardless of whether they are Florida dealers or dealers licensed in other states.

Foreign buyers: If a customer is from another country, the auction should obtain documentation from that country (that has been translated into English) indicating the customer is a licensed dealer. If the country of origin does not license motor vehicle dealers, the auction should obtain documentation to this effect and indicating that the person involved deals in motor vehicles in their country of origin. Such documentation may be obtained from that country's embassy in the United States.

If a licensed auction dealer wishes to retail motor vehicles, they must apply for an independent motor vehicle dealer's license with the Department. If a licensed auction dealer wishes to retail recreational vehicles, they must apply for a recreational vehicle dealer's license with the Department.

u. UNFAIR AND DECEPTIVE TRADE PRACTICES STATEMENT

An applicant for a recreational vehicle dealer license must provide a statement that the applicant has not and will not enter into any agreements, written or oral, with any other person or business entity, which would constitute an unfair and deceptive trade practice in

violation of Part II of Chapter 501, Florida Statutes. The required statement is part of the RV dealer license application (visit the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf> to access form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer).

v. SPECIAL INSTALLER LICENSING REQUIREMENTS FOR MOBILE HOME DEALERS AND MOBILE HOME INSTALLERS

320.8249, F.S., 15C-2.0073, F.A.C.

A mobile home installer's license is required for all persons who set up mobile homes. Licensed mobile home dealers who want to be mobile home installers are required to obtain a separate installer license, provided a bona fide full time employee of the dealership attends an eight-hour training course offered by the Division of Motorist Services, Manufactured Housing Section. A mobile home dealer or installer must purchase installer decals from the Manufactured Housing Section for \$10 each. One decal must be affixed to a mobile home prior to the set up or installation of the mobile home. Only one decal is required per mobile home regardless of size. A mobile home dealer is also responsible to ensure that all required county permits are obtained prior to the delivery and installation of the mobile home, even if they do not perform the set up.

As of July 13, 1994, federal requirements were enacted which created specific wind zone requirements for the construction of mobile homes. Mobile homes that are sold and set up in a particular wind zone must be constructed to meet federal requirements for that wind zone. A mobile home dealer may only sell mobile homes built to the requirements for that area.

Mobile/manufactured homes must be installed according to the manufacturer's installation instructions which are in compliance with federal regulations regarding mobile/manufactured home installation. In the case of a used home, if the manufacturer's instructions are not available the home must be installed in accordance with Rule Chapter 15C-1, Florida Administrative Code, which is a Department of Highway Safety and Motor Vehicles administrative rule chapter.

Mobile/Manufactured Home Uniform Installation Standards

The mobile/manufactured home uniform installation standards for Florida are provided in Rule Chapter 15C-1, F.A.C. This rule chapter provides standards for mobile/manufactured home site preparation, piers, tie-down straps, anchors, the requirement for longitudinal tie-downs as well as frame tie-downs, and soil tests which must be done to determine the appropriate anchors. It requires that mobile/manufactured homes be installed in accordance with the manufacturer's instructions. Since these instructions may not be available for used mobile/manufactured homes, the rules require that such homes be

installed in accordance with this rule chapter. 24 CFR, Part 3286, requires that states establish mobile/manufactured home installation standards at least as stringent as HUD's Model Manufactured Home Installation Standards (24 CFR, Part 3285). Florida's mobile/manufactured home installation standards meet this requirement.

Mobile/Manufactured Home Installation Component Approval

Section 320.8251, F.S., provides that the Department shall certify for use in this state any mobile/manufactured home installation component, product, or system. In order to obtain the certification required, an installation component manufacturer must apply to the Department for such certification and must submit to the Department a report certifying that the installation component, product or system meets the mobile/manufactured home uniform installation standards provided in Rule Chapter 15C-1, F.A.C. The report must be signed and sealed by a professional engineer registered with this state. Essentially, no installation component, product or system may be approved unless its performance is documented by sound engineering testing. The certification provided for in this statute may be subject to suspension or revocation and the person or entity who obtained the certification is subject to a fine upon a finding by the Department that the person or entity has obtained the certification by misrepresentation or fraud or that the component, product or system does not meet the uniform mobile/manufactured home installation standards provided in Rule Chapter 15C-1, F.A.C.

Mobile/Manufactured Home Installer Licensing

Section 320.8249(1), F.S., provides that any person who installs a mobile/manufactured home must be licensed as an installer by the Manufactured Housing Section, Division of Motorist Services. The license period for mobile/manufactured home installers is October 1 through September 30 of each year.

License Requirements:

An applicant for a mobile/manufactured home installer license should not submit their license application until they have taken the required installer training class and passed the required exam provided by an examination vendor. The Installer Licensing Sub-Section in the Manufactured Housing Section will schedule the applicant for a training class. When the applicant applies for a license they must submit the following materials to the Installer Licensing Section:

- Certification that the applicant is at least 18 years of age pursuant to section 320.8249(3), F.S.
- A completed application on form HSMV-81401 for individuals (can be accessed at <http://www.flhsmv.gov/dmv/forms/BMHRV/81401.pdf>) or, for mobile/manufactured home

dealers on form HSMV-81409 (can be access at <http://www.flhsmv.gov/dmv/forms/BMHRV/81409.pdf>) .

- A check or money order for the licensing fees.
- A performance bond on form HSMV-81402, except for mobile home dealers who use their dealer bond in place of the performance bond. Form HSMV 81402 can be accessed at <http://www.flhsmv.gov/dmv/forms/BMHRV/81402.pdf> .
- Certification that the applicant has the required liability insurance policy.
- Certification that the applicant has attended the required installer training course provided by the Manufactured Housing Section staff pursuant to section 320.8249(3), F.S.
- Certification that the applicant has passed the installer licensing test pursuant to section 320.8249(3), F.S. on form HSMV-81413. This test may be taken only upon completion of the required installer training course. There is a \$100 fee for this test payable to the Division of Motorist Services.

The address and telephone number of the Installer License Section are as follows:

Manufactured Housing Section
Bureau of Motorist Services
Room A-128, Neil Kirkman Building
2900 Apalachee Parkway, Mail Stop 66
Tallahassee, Florida 32399-0640
Telephone: (850) 617-3004

For further information please visit the Department's website at: <http://www.flhsmv.gov/mobilehome/>

H. SPECIAL LICENSING REQUIREMENTS - FRANCHISED MOTOR VEHICLE DEALER APPLICANTS 15C-7.004, F.A.C.

In addition to the general licensing requirements explained in the previous section, additional requirements and procedures must be followed for the licensing of a franchised motor vehicle dealership.

1. NEW/ADDITIONAL POINT LOCATION AND RELOCATION *320.642(1), F.S., 15C-7.004, FAC*

- a. When a licensed manufacturer, distributor or importer contemplates the establishment of an additional point location for the sale of new motor vehicles, or relocation of an existing dealer to a location within a community or territory where the same line-make vehicle is presently represented by a franchised motor vehicle dealer or dealers; that manufacturer,

distributor, or importer must notify the Department in writing of its intention. This notice must be sent to the Department by mail with a check made payable to DHSMV for \$77.50 per publication in the Florida Administrative Weekly. The notice must include the following:

- 1) The name and specific location of the proposed dealership;
- 2) The date the manufacturer, distributor, or importer intends to do business with the dealer at the proposed location;
- 3) The line-make(s) the dealership is being approved to sell;
- 4) The name and address of the dealer-operator and all principal investors in the proposed dealership;
- 5) The identity of all dealers of the same line-make in the county or any county contiguous to the proposed location.

PLEASE NOTE: The notice must include not only the franchised dealers established by the manufacturer, distributor or importer for the line-make but also other franchised dealers of the same line-make established by other manufacturers, distributors or importers in the same county or any contiguous county. All licensed dealers of the same line-make in the same county or adjacent or contiguous county have a right to file a protest with the Department regardless of who their franchiser is.

- b. The notice of appointment of a new franchise dealer or relocation of an existing dealer will be submitted for publication in the Florida Administrative Weekly after the letter and payment have been received. Simultaneously with the filing of the notice of intent by the manufacturer, the prospective dealer may contact the Bureau of Motor Vehicle Field Operations, Regional Office for a cursory review of their preliminary application for verification of accuracy of the required documents. This application will be reviewed and returned to the dealer advising them of any required documents or corrections. You may access form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home or Recreational Vehicles at the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf> for instructions to complete the form and the list of documents required with the application.

The dealer applicant may elect not to submit certain costly documents such as a surety bond, garage liability insurance certificate and lease agreement at the time of preliminary filing for a cursory review.

- c. Upon publication, the Department will notify, in writing, all licensed dealers of the same line-make in the county and all contiguous counties of their right to protest the

establishment of a new point dealership. The notice, along with a copy of the publication, will be sent to those dealers who have a standing to protest. The notice will contain a general explanation of the grounds upon which a dealer may protest the new point and will provide instruction on how to file a protest. Licensed dealers receiving such notice must respond within thirty days from the date the notice of intention was published in the Florida Administrative Weekly in order for a protest to be accepted. The thirty day time period includes weekends and holidays.

- d. The Department will not accept advance letters of protest or no protest from any licensed dealer. Such letters of commitment, either protesting or not protesting the establishment of an additional point, must be dated after the date the notice is published in the Florida Administrative Weekly. Any petitions or complaints or correspondence indicating any intent to file or not to file a petition or complaints, which are filed prior to publication of the notice, shall be returned to the sender.
- e. If any existing dealer with the authority to protest a new point location files a protest, the Department will forward the case to the Division of Administrative Hearings, who will schedule a hearing in which all parties have the opportunity to be heard on the matter. Following the hearing, the Department will issue a final order either granting or denying a new point location. If the Department denies a new point location, the matter is closed and the preliminary application will be rejected. If the new point location is granted, the applicant then has twelve months from the date of the final order to begin construction of the building to house the dealership. Such construction must be completed within twenty-four (24) months of the date of the final order and, the applicant must, within that time period, finalize the application and be issued a license as a franchised motor vehicle dealer. This period may be extended by the Department for good cause. The request stating the cause for an extension on the final order must be received by the Department before the expiration of the final order. It should be noted, that the awarding of an additional point location does not guarantee that the applicant will meet all qualifications of the licensing statute. Those qualifications are separate from the additional point issue.

2. REOPENING OF A DEALERSHIP

320.642(5)(a),(1), (2), (3), & (4) F.S., 15C-7.004(4)(a). F.A.C.

The opening or reopening of a dealership by the same motor vehicle dealer or a successor dealer within twelve months will not be considered an additional point if one of the following criteria are met:

- 1. The opening or reopening is within the same or an adjacent county and is within 2 miles of the former motor vehicle dealer location;

2. There is no dealer within 25 miles of the proposed location or the proposed location is further from each existing dealer of the same line-make than the prior location is from each dealer of the same line-make within 25 miles of the new location;
3. The opening or reopening is within 6 miles of the prior location and, if any existing motor vehicle dealer of the same line-make is located within 15 miles of the former location, the proposed location is no closer to any existing dealer of the same line-make within 15 miles of the proposed location; or
4. The opening or reopening is within 6 miles of the prior location and, if all existing motor vehicle dealers of the same line-make are beyond 15 miles of the former location, the proposed location is further than 15 miles from any existing motor vehicle dealer of the same line-make.
 - a. Any other such opening or reopening shall constitute an additional motor vehicle dealer per section 320.642(5), Florida Statutes.
 - b. If a motor vehicle dealer has been opened or reopened pursuant to this subsection, the licensee may not propose a motor vehicle dealer of the same line-make to be located within 4 miles of the previous location of such dealer for 2 years after the date the relocated dealership opens.

If the opening or reopening does not meet any of the above tests, the dealership must be treated as an additional point location and satisfy all the criteria for an additional point.

3. OPENING OF A SERVICE ONLY FACILITY

320.642(6)(a),(b),or(c), F.S.

When a proposed addition or relocation concerns a dealership that performs or is to perform only service, and will not or does not sell or lease new motor vehicles, the proposal shall be subject to a notice of protest, unless the applicant is claiming an exemption provided under this statute.

For a service only facility to be licensed by the Department, the dealership must hold a franchise license also. The licensing of a service facility is similar to the licensing of a franchise dealer. The location requirements have to be met and thereafter, the dealer must submit an application for a service facility only license, including all required documents, fees and copy of the final order signed by the Director of Division of Motorist Services, to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership.

4. BUY/SELL OF DEALERSHIPS

320.643, F.S.

Buy-sell arrangements occur when a motor vehicle dealer wishes to sell the dealership (or in the case of a franchise dealer, their dealership or franchise agreement), to a new owner. In the case of a franchise buy/sell agreement, the buyer must have a letter from the manufacturer agreeing to the transfer of the franchise agreement from the selling dealer to the buying dealer or, at least, not have received a refusal from the manufacturer within sixty (60) days after notifying the manufacturer of the proposed transfer. The letter approving the buy/sell from the manufacturer, importer or distributor must be received by the Department. If the sale is permitted, the seller must return their dealer license to the Bureau of Motor Vehicle Field Operations, Regional Office and the buyer can apply for a license in their own name.

If, in conjunction with the buy-sell, the buyer also intends to relocate the franchise, a letter from the manufacturer must be received by the Dealer License Section in Tallahassee approving the relocation. Also, if the relocation with the buy/sell can be exempted under ss. 320.642(5)(a),(1),(2),(3),or(4), F.S., then such exemption must be clearly requested in the letter from the manufacturer. As per rule 15C-7.004(4)(b), Florida Administrative Code, if an existing dealer wishes to relocate and claims an exemption under section 320.642(5)(a),(1),(2),(3),or(4), F.S, the dealer can do so by submitting a letter claiming the exemption for relocation on their dealership's letterhead. This must be submitted along with the application. In such a case, a letter from the manufacturer is not required. However, it will be responsibility of the dealer to advise their franchiser of the relocation. If such exemption cannot be claimed, the requirements for the appointment of a new point or relocation as specified in s. 320.642, F.S., must be met.

Note: The Bureau of Motor Vehicle Field Operations, Regional Office must receive the completed application from the dealer applicant (buying dealer) with accurate required documents, fees, the Buy/Sell Affidavit completed by the buying dealer, Voluntary Relinquishment of License form (VRL) completed by the selling dealer and the original license of the selling dealer. If the selling dealer has lost or misplaced their original license, they must submit an affidavit stating that they have lost or misplaced their license. The VRL, Buy/Sell Affidavit and the original license or affidavit should be submitted by the Bureau of Motor Vehicle Field Operations, Regional Office staff to Legal Office. A final order will be signed by the Director of Division of Motorist Services approving the cancellation of the seller's license and issuance of the license for the new buying dealer. Thereafter, the buying dealer's, license will be issued by the Bureau of Motor Vehicle Field Operations, Regional Office. It is important that the selling dealer must complete all pending transactions they have with their Electronic Filing system (EFS) vendor before completing and signing the VRL form.

The Voluntary Relinquishment of License form and the Buy/Sell Affidavit form are available at the Bureau of Motor Vehicle Field Operations, Regional Offices.

5. CHANGE OF PHYSICAL LOCATION
15C-7.004(4)(b). F.A.C.

Pursuant to 15C-7.004(4)(b), Florida Administrative Code, a dealer wishing to change the physical location of their business shall submit an application to the Motor Vehicle Field Office servicing the dealership location, including a letter indicating which provision of section 320.642(5)(a)1,2,3,or 4, Florida Statutes, if any, it contends exempts the proposed location from consideration as an additional dealership. It is the dealer's responsibility to have this relocation with exemption approved by their franchiser.

I. MULTIPLE LICENSES AT THE SAME LOCATION

Multiple licenses to allow the operation of different types of dealerships at the same location are permitted as long as the ownership of each dealership is identical. For example, it is permissible for a dealer to have an independent motor vehicle dealer license and a mobile home dealer license at the same location if the location meets the requirements for both types of licenses, the individual is the owner and operator of both dealerships, and the officers of both dealerships are the same.

J. FILING AN INITIAL APPLICATION

The Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer (Form HSMV 86056) is a multi-purpose form, which is used as an initial application for a dealer license as well as updating corporate officer information to an existing dealer license. Dealers must have a site approved by a Bureau of Motor Vehicle Field Operations, Regional Office, for the dealership location. Once a location is found, contact your local Bureau of Motor Vehicle Field Operations, Regional Office to schedule an appointment to have the site inspected. A Bureau of Motor Vehicle Field Operations, Regional Office, Compliance Examiner will inspect the location. It is recommended that you do not sign a lease until the site has been approved by the Department. A list of the Regional Offices can be accessed at the Department's website at http://www.flhsmv.gov/dmv/L_Dealer_Trng_Sch.pdf.

Applicants must complete form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer. This form can be downloaded at the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf>. This form must be completed by initial license applicants and licensed dealers submitting corporate updates to the Department. This form has detailed instructions on the licensing requirements and procedures for all categories of dealer applicants.

All applicants are encouraged to fill out the application as completely and accurately as possible. If additional assistance is needed, an applicant should contact the Compliance Examiner at the Bureau of Motor Vehicle Field Operations, Regional Office of the Division of Motorist Services serving the dealership locale. All applicants must ensure that all attachments accompany the application when

it is completed. Any incomplete applications will only delay the processing and issuance of a license. When the application is complete, applicants should contact the Compliance Examiner or Bureau of Motor Vehicle Field Operations, Regional Office serving the locale to submit the application with the Division of Motorist Services. **Applications should NOT be sent to the Dealer Licensing Section in Tallahassee.** Applications sent to Tallahassee will be returned to the applicable Bureau of Motor Vehicle Field Operations, Regional Office for processing and will only delay the issuance of a license.

K. PROCESSING THE INITIAL APPLICATION

Processing the initial application is a two step process that requires a location inspection and a review of the completed application and supporting documentation to ensure that it meets all the minimum requirements. If a Compliance Examiner has not already inspected the location of the proposed dealership to ensure that it meets all criteria applicable under the licensing laws and rules, that inspection will be the first activity in processing the initial application. The Compliance Examiner will also review the application and attachments with the applicant to ensure that the application is complete, that all signatures have been affixed and notarized and that all attachments are properly completed. The Compliance Examiner will then take the application to the regional office where it will again be reviewed. The licensing fee will be deposited, the application will be processed, and if all documents are in order, the license will be issued by the Bureau of Motor Vehicle Field Operations, Regional Office. The original application will be sent to the Dealer License Section, Bureau of Motor Vehicle Field Operations, Headquarters in Tallahassee where it will be reviewed for quality assurance purposes, and if everything is in order, it will be filed. At the same time, the electronic fingerprint submitted by the FDLE authorized service provider will be processed through the Florida Department of Law Enforcement and the Federal Bureau of Investigation. The processing will not delay the issuance of a license. However, if upon return of the results of the fingerprints, it is learned that an applicant has falsified an application or has been convicted of a felony; administrative action will be initiated to revoke the dealer's license.

If everything is in order, the processing time is minimal and licenses are normally issued within five days from the date the completed application is received in the Bureau of Motor Vehicle Field Operations, Regional Office. If there are errors in the application or if additional documentation is needed, the license issuance will be delayed. Applicants must be aware that the Dealer License Section in Tallahassee does not process the application. The application for a dealer license is processed in the Bureau of Motor Vehicle Field Operations, Regional Office. The Bureau of Motor Vehicle Field Operations, Regional Office and the Dealer License Section in Tallahassee **will not give out license numbers over the telephone.** Applicants may contact their Bureau of Motor Vehicle Field Operations, Regional Office responsible for their dealership to find out if their license has been issued. Licenses are mailed to the applicant generally within a day of issuance.

L. THE DEALER LICENSE

Form HSMV 84103, is the dealer license issued by the Bureau of Motor Vehicle Field Operations, Regional Office. A new license form will be printed each year for routine renewals. New licenses will be printed for changes of address, name change, all original applications, and reprints for lost licenses. The license information will be computer printed indicating the license year, the type of license, license number and name of the dealership and the statutory authority under which the license is issued, and the effective and expiration dates of the license. All approved fictitious name(s) of the dealership will also appear on the license certificate.

A permanent license number is assigned to each licensed dealer. A confidential pin-number is issued with the license. The pin-number does not appear on the dealer license, but is supplied separately to the licensee on the receipt and must be safeguarded, and used by the licensee to process any work at any Bureau of Motor Vehicle Field Operations, Regional Office or tax collector office. A dealer will not be able to process title work or purchase temporary tags or dealer tags unless the dealer produces the correct pin-number for a current license number. The confidential pin-number is not changed unless/until the dealer requests it in writing. The confidential pin-number will not be printed each year.

The pin-number is not available to the tax collectors on the computer system and cannot be checked or verified by them. The dealer or the dealer's representative must present the pin-number either verbally or in writing to the tax collector's office.

If a pin-number is lost, misplaced, or forgotten, a dealer principle may personally contact the Bureau of Motor Vehicle Field Operations; Regional Office responsible for their dealership and upon showing proof of identity to the Regional Office staff can advise the dealer of their existing pin-number. If a dealer wishes to change their pin-number, a request must be submitted the Division of Motorist Services, Dealer License Section, Tallahassee in writing, on the dealer's letterhead. The Dealer License Section will change the pin number upon verifying the signature of the officer that submitted the request. Since the pin-number is a security feature, this procedure is designed to protect the dealer. The Division of Motorist Services will not release the pin-number under any circumstances without written authorization. The request should be sent to:

Division of Motorist Services
Dealer License Section
2900 Apalachee Parkway
Mail Stop 65, Room A312
Tallahassee, FL 32399

NOTE: It is only necessary to provide the pin-number at the time title and registration work is processed at a tax collector's office. The pin-number should not be entered on dealer reassignments, nor should it be written on title work. If a dealer is processing work at a tag agency, the dealer may verbally

communicate the pin-number to the clerk entering the work. If the work has to be left at the tag agency, the dealer may wish to put the pin-number on a piece of paper. The Division of Motorist Services does not regulate how this pin-number is communicated to the tag agency, but the tag agency cannot process the work without it. Other than communicating the pin-number to the tag agency, no one else has any reason to know the pin-number or has any use for it.

M. DENIAL OF INITIAL LICENSE

320.27(9), F.S.

1. GROUNDS FOR DENIAL

The Department may deny a license to any motor vehicle, mobile home, or recreational vehicle dealer applicant on any of the following grounds:

- a. Failure to meet the qualifications for holding a license; for example:
 - 1) Failure to answer all applicable questions;
 - 2) Failure to provide legible answers on the application;
 - 3) Failure to sign an application;
 - 4) Failure to include necessary fees;
 - 5) Failure to provide the required surety bond or irrevocable letter of credit;
 - 6) Failure to provide garage liability or general liability insurance coupled with a business automobile insurance and personal injury protection of \$10,000;
 - 7) Failure to provide a sales and service agreement or letter of intention from a manufacturer, distributor, or importer, where applicable;
 - 8) Failure to attend training and provide a verification form;
 - 9) Failure to register a fictitious trade name, when required;
 - 10) Failure to provide corporate documents, when required;
 - 11) Failure to obtain a federal employer's identification number, when required;
 - 12) Failure to obtain a sales tax number;
 - 13) Failure to attach a true copy of a written lease, if applicable; and
 - 14) Failure to submit proof of electronic fingerprints from a FDLE authorized service provider.

- b. Willful violation of any law of this state having to do with dealing in motor vehicles, mobile homes, or recreational vehicles;
- c. Willful failure to comply with any administrative rule promulgated by the Department;
- d. Commission of fraud or willful misrepresentation in applying for or in obtaining a dealer license;
- e. Perpetration of a fraud upon any person as a result of dealing in motor vehicles, mobile homes, or recreational vehicles;
- f. Conviction of a felony;
- g. Additional grounds for denying any applicant a license as a mobile home or recreational vehicle dealer include the following:
 - 1) When an applicant has made a material misstatement in the application for a license;
 - 2) When an applicant has failed to comply with any of the applicable provisions of Chapter 320, Florida Statutes;
 - 3) When an applicant or one or more of the principals or agents has violated any law, rule, or regulation relating to the sale of mobile homes or recreational vehicles;
 - 4) When the Department has proof of unfitness of the applicant;
 - 5) When any applicant has engaged in previous conduct in any state which would be a ground for revocation or suspension of a license in this state; and
 - 6) When an applicant has violated any of the provisions of the National Mobile Home Construction and Safety Standards Acts of 1974, or any rule or regulation of the Department of Housing and Urban Development, promulgated thereunder.

2. PROCEDURE AND RIGHTS OF APPLICANT

120.57 F.S.

Any time the Division of Motorist Services denies issuance of a license, the applicant will be advised in writing of the reasons for denial. It will also notify the applicant that they have twenty-one days from receipt of the letter to request a hearing to contest the Division's decision. The hearing request must be submitted in writing to the director of the Division of Motorist Services within twenty-one days. If no such request is received, the Division's decision

is final. If the applicant decides to request a hearing, it will be scheduled at the earliest possible time, giving the applicant the opportunity to explain why the Division should reconsider its decision to deny the license. Following a hearing, the Division will either confirm its earlier decision denying the license or will reconsider its position and issue the license, assuming that the application is complete and accurate and all applicable documentation and fees are attached.

N. MODIFICATIONS AFTER A LICENSE HAS BEEN ISSUED

All modifications to an existing license must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership on form HSMV 86072, [Modification To Dealer License](#). This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for various kinds of modifications is attached to this form. Please note form HSMV 86056, Application for a [License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer](#), must be used only by an initial dealer license applicant and by existing licensed dealers who wish to submit corporate updates regarding their officers and their official statuses. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf>. The following sections briefly describe the action that a licensee should take to process one of the modifications described.

1. CHANGE OF LICENSE TYPE

A change of license type involves a change of the type of business operated by the dealership. For example, changing a franchise motor vehicle dealership (VF) to a dealership that sells used cars (VI), or changing a motor vehicle auction (VA) to a used car dealership (VI), or any other similar change of license type, requires the applicant to complete a new application on form HSMV 86056, including payment of an original application fee and meeting all requirements for initial licensure. **If the holder of a license wants to change the type and obtain a franchised dealer license (VF), then the requirements for a franchised dealer must be met.** The old license, a completed Voluntary Relinquishment of License form and a buy/sell affidavit (signed by the dealer in the capacity of both the seller and buyer taking responsibility of the inventory) must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office who in turn will submit it to Office of the General Counsel in Tallahassee so that a final order can be issued approving the cancellation of the license. Thereafter, the license for the new license type can be issued by the Bureau of Motor Vehicle Field Operations, Regional Office. These forms are available at the Bureau of Motor Vehicle Field Operations, Regional Offices.

2. CHANGE OF ENTITY

A change of entity of a dealership such as changing a sole ownership to a partnership, a partnership to a corporation, or any other similar change requires an initial application, satisfaction of all licensing requirements for a new license, and payment of fees. The dealer must submit an application on form HSMV 86056 to the Bureau of Motor Vehicle Field Operations, Regional Office for an initial license under the new name. The old license, a completed Voluntary Relinquishment of License form and a merger, entity change, or name change affidavit (signed by the dealer in the capacity of the seller and buyer taking responsibility of the inventory) must be submitted to the Office of the General Counsel in Tallahassee for a final order approving the cancellation of the license. Thereafter, the license for the new entity can be issued. These forms are available at the Bureau of Motor Vehicle Field Operations, Regional Offices.

NOTE: When dealerships owned and operated by the same dealer are merged, an application for a name change must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office by the dealer under the name of the company that is going to be retained. The license of the dealership that is not going to be retained, a completed Voluntary Relinquishment of License form and a merger, entity change, or name change affidavit must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office who in turn will submit to the Office of the General Counsel in Tallahassee so that a final order can be issued approving the cancellation of the license. Thereafter, the name change can be processed by the Bureau of Motor Vehicle Field Operations, Regional Office. These forms are available at the Motor Vehicle Field Offices.

3. ADDING A SUPPLEMENTAL LOCATION

320.27(5), 320.77(7), 320.77(15)(a)(2), 320.771(7), 320.771(16)(a)(2), F.S.

To add a supplemental location on an existing license, a dealer must complete the appropriate portion of the form HSMV 86072, [Modification To Dealer License](#), and submit all required documentation and a fee of \$50 to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for adding a supplemental location is attached to this form. The location cannot be operated until a license has been issued. If the addition of a supplemental location is for a Mobile Home or Recreational Vehicle dealer's license and this increases the number of supplemental locations to more than four additional locations, a new bond is required in the amount of \$50,000 for a mobile home dealer and \$20,000 for a recreational vehicle dealer.

Please note: The location must pass the site inspection by the Bureau of Motor Vehicle Field Operations, Regional Office Compliance Examiner.

4. CHANGING A NAME

320.27(4)(a), F.S.

Any motor vehicle, mobile home or recreational vehicle dealer desiring to change the ownership name or fictitious trade name of a dealership must complete form HSMV 86072, [Modification To Dealer License](http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf), and submit it to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for a name change is attached to this form. Please submit a completed form HSMV 86072, [Modification to Dealer License](http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf) with the required documents to change the name, accompanied by a \$25 fee. Motor vehicle dealers must also submit an affidavit stating that there has been no change in the majority ownership. Franchise motor vehicle dealers must submit a second affidavit indicating there has been no change in the dealer-operator whose name appears on the Sales and Service Agreement. An original bond rider must be submitted amending the bond to the new name. If a fictitious name has been changed or added, it must also be recorded with the Secretary of State's Division of Corporations Office and a copy of the certification stating the fictitious name must be submitted along with the application.

Please note: The name change for franchise dealers must be approved by their manufacturers. The manufacturer(s) must advise the Department in writing of their approval of the name change for their franchise dealer.

5. CHANGE OF PHYSICAL LOCATION ADDRESS

A licensed dealer wishing to change the physical location address of the dealership must complete form HSMV 86072, [Modification To Dealer License](http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf), and submit it to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for adding a supplemental location is attached to this form. The appropriate fee must accompany the application for change of physical location address. The new location must be inspected and approved by the local Compliance Examiner serving the area of the new location. Along with the modified application, the current license, and a copy of a lease or proof of ownership of the property must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. If you are moving to an area serviced by a different Compliance Examiner, you must advise both offices of your intent to move.

In the case of a franchised dealer, a change in physical location must comply with the special requirements, and will require the manufacturer's approval in writing to the Department. The only time that a written notice of the manufacturer's approval to the Department is not required is when an existing licensed Franchise dealer is relocating claiming an exemption under section 320.642(5)(a)1, 2, 3 or 4, Florida Statutes and Florida Administrative Code 15C-7.004,

4(b). In such a case the dealer will submit with their application, an affidavit claiming the exemption for the relocation. It is the responsibility of the dealer to inform their franchiser of the relocation.

6. CHANGE OF MAILING ADDRESS

Any dealer wishing to change their mailing address may do so anytime during the year by completing form HSMV 86072, [Modification To Dealer License](http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf), and submit it to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for adding a change of mailing address is attached to this form. The original license is required to be submitted with the application only if the dealer requests the issuance of a new license reflecting the mailing address change. The mailing address can also be changed at the time of renewal of a motor vehicle dealer's license (visit the Department's website at <http://www.flhsmv.gov/html/forms.html> to access form HSMV 86720, Renewal Application). All dealers are advised to file this form if the mailing address changes to ensure that all communications between the Division and the dealer are received. No fee is required to change the mailing address.

7. POSTAL UPDATE

A dealer must advise the Bureau of Motor Vehicle Field Operations, Regional Office responsible for their dealership when the post office has changed the address of the dealership, even though no move has taken place. A licensed dealer wishing to notify the Bureau of Motor Vehicle Field Operations, Regional Office responsible for their dealership of this change may do so by completing form HSMV 86072, [Modification To Dealer License](http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf), and submitting it to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for postal update is attached to this form. A copy of the notification letter from the postmaster or a local government entity must be provided. No fee is required to change the postal address.

8. CHANGE OF A SUPPLEMENTAL LOCATION TO A MAIN LOCATION

A change of a supplemental location to a main location can be accomplished by completing form HSMV 86072, [Modification To Dealer License](http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf), and submitting it to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. This form can be downloaded from the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86072.pdf>. Detailed information on the required documents for this transaction is attached to this form. The dealer must submit the licenses for both the main location and the additional location to

the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. Upon receipt, the Bureau of Motor Vehicle Field Operations, Regional Office will cancel both licenses and issue a new license, at no charge, reflecting that the new main location is the previous supplemental location.

9. CORPORATE UPDATE

When a corporation holding any kind of dealer license has a change in corporate officers, the business must report the change of corporate officers to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership by completing the appropriate questions on the application. Visit the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf> to access form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer. This form must be accompanied by a copy of the corporate minutes indicating the corporate update. Under certain circumstances, the Department may request a letter of resignation signed by the outgoing officers. A proof of electronic fingerprint from a FDLE authorized service provider for each new corporate officer/director must be sent with the application. Filing of the application does not require the payment of any fees and the purpose is to keep the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership notified of current corporate officers. Upon receipt, the Bureau of Motor Vehicle Field Operations, Regional Office will update the records accordingly. Failure to provide this information may cause confusion and delay of license renewals. A copy of the corporate changes filed with the Division of Corporations must also be submitted along with the application. The application form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer, must be completed and signed by an existing officer and page 5 must be signed by each new officer and must be notarized.

10. CHANGE OF OWNERSHIP

When the ownership of a dealership which is a sole proprietorship or partnership changes, a new application is required and the business is re-licensed. All requirements for an initial license must be satisfied.

When a sole owner of a dealership expires, the spouse, children or immediate relative may run the dealership by submitting to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership, a court order appointing them as the executor of the estate. Once the will is probated, a copy must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership with an application for a new license.

As per section 620.8601(c), Florida Statutes, "Within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by

the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of the corporate partner's charter or the corporate partner's right to conduct business;" When a partnership is dissolved, it is no longer in existence. The individuals must apply for a new license with the Department if they wish to be in business.

When a corporate officer of a dealership that is incorporated expires, a modification application reflecting the corporate update, on HSMV form 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer, must be submitted to the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. A death certificate or an obituary announcement in the newspaper must be submitted with the application and the changes must be registered with the Division of Corporations. If the expired officer is being replaced, the new incoming officer must be listed on the application and must submit proof of electronic fingerprint from a FDLE authorized service provider. The minutes of the meeting reflecting the addition of the new officer and the changes must be registered with the Division of Corporations. On-line access is available at www.sunbiz.org.

11. RELOCATE OR ESTABLISH A FRANCHISE DEALERSHIP

Pursuant to section 320.642, Florida Statutes, the manufacturer must notify the Division, in writing, of its intention to relocate an existing franchise dealer or establish a new franchise point, naming the specific location, identifying the dealer-operator, the principal investors, and identifying all other dealers of the same line-make in the county in which the new franchise is to be located and all contiguous counties. The manufacturer must include all dealers in the same county and contiguous counties selling the same line-make regardless of who their franchiser is. Pursuant to section 320.642(8), Florida Statutes, "The Department shall not be obligated to determine the accuracy of any distance asserted by any party in a notice submitted to it. Any dispute concerning a distance measurement asserted by a party shall be resolved by hearing conducted in accordance with ss.120.569 and 120.57, Florida Statutes." What this means is, that it is the responsibility of the manufacturer to decide and list on the notice of intent the dealers that have a standing to protest for the line-make. The notice(s) from the licensed manufacturer, importer or distributor must be accompanied by a check for \$77.50 per publication. The Department is required to publish a notice of intention to relocate or establish the new franchise in the Florida Administrative Weekly and then give all potentially affected existing dealers 30 days to file their protest with the Department.

If protest(s) is received, the case will be forwarded to the Division of Administrative Hearings. If no protest is received, a Final Order will be signed by the Director of Division of Motorist Services. A copy will be e-mailed to the manufacturer, dealer and the Bureau of Motor Vehicle Field Operations, Regional Office. Thereafter, the dealer **must** submit an application at the Bureau of Motor Vehicle Field Operations, Regional Office either to relocate or apply for a new

franchise license or add the line-make if the dealer is already a licensed franchise dealer. No motor vehicle shall be distributed until this process is complete.

At the same time, the franchised dealer may complete the required questions on the application for HSMV 86056 and submit the application to the Division for a cursory review only. (Visit the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86056.pdf> to access form HSMV 86056, Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer).

Franchised dealers adding a new line-make must submit an application for licensing of the new line-make. There are options the dealer may consider in submitting the application.

- a. If the dealer is currently licensed as a franchised dealer (VF), they may apply to have the new line-make added to their existing license. If the location for the new line-make is at a location other than the main lot, the dealer has the option to apply for a supplemental location license under the existing license.
- b. Another option a franchised dealer may wish to consider is applying for a new license either at the main location of an existing license or at a new location that has met the requirements of establishment detailed in Rule 15C-7.004, F.A.C., entitled ***Special Licensing Requirements-Franchised Motor Vehicle Dealer Applicants***. (To view Rule 15C-7.004, F.A.C., visit the Department of State's website at <http://election.dos.state.fl.us> and click on the Administrative Code/Weekly link.)

12. DUALING FRANCHISES

Any time a franchise dealer adds a new franchise, questions arise concerning the business name. Often, individual manufacturers want to ensure that their line-make is a part of the dealership's fictitious trade name. Sometimes manufacturers will not permit their line-make vehicles to be associated with any other line-make vehicle as part of a fictitious trade name. Other times manufacturers may insist that a corporate dealership operate only in its corporate name so that one make vehicle does not take preference over another make. All of these problems must be worked out between the dealership and the various manufacturers who grant franchises to a dealer at the same location.

13. CHANGE OF BONDING COMPANIES

Any time a dealership voluntarily changes bonding companies during a licensing period; the dealer is obligated to notify the Bureau of Motor Vehicle Field Operations, Regional Office responsible for their dealership by sending in the replacement bond. In order for a replacement bond to be accepted it must meet all the requirements of a valid surety bond and must have a

beginning date that overlaps the ending date of the bond being canceled to ensure that the dealership is covered at all times. Failure to notify the Department of a voluntary change of bonding companies could result in disciplinary action being taken.

14. CHANGE IN GARAGE LIABILITY INSURANCE COMPANIES

320.27(3), F.S.

Dealers in motor vehicles (including motor homes), recreational vehicle dealers, and mobile home dealers and mobile home brokers selling recreational vehicles are required to have and maintain garage liability or general liability coupled with a business automobile insurance coverage during a licensing period. If a dealer voluntarily decides to change companies during a licensing period, the dealer must provide the Bureau of Motor Vehicle Field Operations, Regional Office responsible for their dealership, with proof of the new company and policy number.

O. KEEPING AND MAINTAINING A LICENSE

1. BOND CANCELLATION

320.27(10)(g), F.S.

Occasionally a surety company will cancel a surety bond issued to a dealership. When this happens, the surety company notifies the Department in writing that it will cancel or terminate its liability on a bond on a specific date giving reasons for the cancellation. If the dealer does not obtain a reinstatement, new bond or letter of credit by the effective date of the cancellation, the Department will issue an Emergency Suspension Order (ESO) and Administrative Complaint (ESO) suspending the dealer's license. Once the ESO is served on the dealer, the dealer then has 21 days to respond to the ESO. If, at the end of the 21 day period, the dealer does not obtain a reinstatement, new bond or letter of credit, the dealer's license will be revoked. In the event of license revocation, if the dealer wishes to be in business again, an initial licensing process, including application, fees, and supporting documentation is required.

GARAGE LIABILITY CANCELLATION

320.27(10)(g), F.S.

Occasionally a garage liability insurance company will cancel an insurance policy issued to a dealership. When this happens, the insurance company notifies the Department in writing that it will cancel the insurance policy on a specific date giving reasons for the cancellation. If the dealer does not obtain a reinstatement or new insurance by the effective date of the cancellation, the Department will issue an Emergency Suspension Order and Administrative Complaint suspending the dealer's license. Once the ESO is served on the dealer, the dealer then has 21 days to respond to the ESO. If, at the end of the 21 day period, the dealer does not

obtain a reinstatement or new insurance policy, the dealer's license will be revoked. In the event of license revocation, if the dealer wishes to be in business again, an initial licensing process, including application, fees, and supporting documentation is required.

2. ABANDONED LOCATION

Sometimes a dealership, because of losing a lease or out of a desire to change locations, will close a location for the purpose of looking for a new location. In such instances, the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership must be notified of this activity by the dealership. The Bureau of Motor Vehicle Field Operations, Regional Office cannot know, without being told that a dealer may be looking for a change of location or may simply be on vacation.

When a representative of the Bureau of Motor Vehicle Field Operations, Regional Office attempts to contact a dealer and finds no business activity at the location, no inventory and no display of vehicles, no personnel available on location, the telephone is either disconnected or not being answered, no response to a Compliance Examiner's business calling card, utilities disconnected, or in some cases, notices are posted on the location that the property is being advertised for sale or for rent, or any other facts that would indicate that the dealer has closed and abandoned the location permanently, it may be concluded that the dealer has abandoned the location. In such circumstances, a report will be prepared by a Compliance Examiner requesting that the license be revoked because the dealership has been closed and the property has been abandoned. This report will be submitted to Legal Office in Tallahassee for further review. It is not the Division's desire to put any dealer out of business but the Division will not allow a license to be retained when there is no dealership at the licensed location.

Before a license will be revoked under these circumstances, due process notification will be provided by Legal Office by certified mail. However, if a dealer is not receiving mail, the dealer may not be notified that the Division will revoke the license. If all attempts are unsuccessful, the Department will publish a notice in the local newspaper in the area where the dealership is located. This publication will run once a week for four consecutive weeks. If no response is received from the dealer, the Legal Office will prepare a final order to revoke the dealer's license. It is the dealer's obligation to notify the Bureau of Motor Vehicle Field Operations, Regional Office responsible for their dealership, in writing, of any temporary closing, or any change of address. If a change of address is not properly applied for, it is likely that a dealer's license will be revoked based on the abandoning of the previous location. Should that happen, the dealer will be required to file an initial application for a new license and meet all current qualifications required of a new licensee.

3. BANKRUPTCY

A dealership undergoing either a Chapter 11 reorganization bankruptcy proceeding or a Chapter 7 liquidation bankruptcy proceeding may retain its license during the course of the bankruptcy proceeding and may continue to operate as a licensed dealer. However, the bankruptcy proceeding does not protect a dealer from all of the operational and licensing requirements imposed on any motor vehicle, mobile home, or recreational vehicle dealer, as the case may be. The bankruptcy proceeding does not protect the dealer from penalties of unlawful conduct nor does it permit a dealer to operate a business in violation of licensing or operational laws. The surety bond or irrevocable letter of credit remains in force and effect, and claims can validly be made against those bonds or letters for violations that occur after the petition for bankruptcy has been filed.

P. GOING OUT OF BUSINESS

Any time a dealer intends to voluntarily go out of business, it is the obligation of the dealer to notify the Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership, in writing or by phone, of the dealer's intent to terminate its business. Such notification must include the date that the licensee intends to terminate its operation. Either at that time, or subsequently, the dealer's Compliance Examiner will initiate a Voluntary Relinquishment of License (VRL) for the dealer's signature. At that time, the dealer must submit their license, any dealer license plates and temporary license plates in their possession to the Compliance Examiner. The dealer must also ensure that all the transactions filed with the Electronic Filing System (EFS) have been completed before completing and signing the VRL form. **UNLESS AND UNTIL A DEALER NOTIFIES THE BUREAU OF MOTOR VEHICLE FIELD OPERATIONS, REGIONAL OFFICE, IN WRITING OR BY PHONE, AND ACTION IS TAKEN TO ACTUALLY CANCEL THE LICENSE, THE DIVISION CONTINUES TO HOLD THE LICENSEE RESPONSIBLE FOR ACTIVITIES OCCURRING UNDER THE AUTHORITY OF THAT LICENSE. A DEALER MAY NOT RELIEVE ITSELF OF LIABILITY BY UNILATERALLY DECIDING ITS LICENSE IS NO LONGER GOING TO BE USED.** The license remains in full force and effect until it is cancelled by the Division of Motorist Services. Once a dealer decides to go out of business, the Bureau of Motor Vehicle Field Operations, Regional Office should be notified of the intent and the dealer will sign the appropriate form Notification of Intent. The notification indicates that the dealer should dispose of any inventory within thirty (30) days before signing the Voluntary Relinquishment of License form along with surrendering the license, pin number, dealer plates and any preprinted temporary tags back to the Department. If the inventory is not disposed of within thirty (30) days, the Department will not accept this petition to voluntarily relinquish the license and will proceed with Administrative Actions against the licensee. A list of these remaining vehicles, including year, make, and vehicle identification number, must be submitted to the local Bureau of Motor Vehicle Field Operations, Regional Office. Also, the dealer must not have any pending sales transactions where payoffs of trade-in vehicles or lien applications have not been made or for which application for title and

registration have not been made. If these conditions are met by the dealer, the Department will accept the Voluntary Relinquishment of License form (VRL) and proceed to cancel the license.

Franchised dealers who enter into buy-sell agreements are subject to the provisions of this section. The selling dealership will be required to submit a VRL and the buying dealer will be required to complete a buy/sell affidavit before a license can be issued to the buying dealer. The buying dealer must submit to the Bureau of Motor Vehicle Field Operations, Regional Office their application for a franchise license, relevant documents and fee required by the Department, the seller's original license for cancellation, a Voluntary Relinquishment of License form (VRL) completed by the seller, and the buy/sell affidavit completed by the buyer. The Department will issue a Final Order to cancel the seller's license. Thereafter, the buying dealer's license application can be processed.

Q. LICENSE RENEWALS

320.27(4), F.S.

Renewal applications are identical for all categories of dealer licenses. The one page renewal form will ordinarily be e-mailed to each dealer at least sixty (60) days prior to the expiration date of the current license (visit the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86720.pdf> to access form HSMV 86720, Renewal Application, Motor Vehicle, Mobile Home or Recreational Vehicle dealers).

There is an obligation placed on a licensee to submit the renewal application at least 30 days prior to the license expiration date. **All renewal applications, fee and required supporting documents must be received in the applicable Bureau of Motor Vehicle Field Operations, Regional Office on or prior to the expiration date. Renewal applications and documents postmarked after the expiration date will be subject to late fee.** The renewal application should only be used if there are no changes to be reported to the Division other than mailing address change. If any other change is to be reported or noted such as a change of physical location, a change in ownership, change of postal address, change of mailing address, or a request for a change of license type, change of primary location to supplemental location and supplemental to primary, change of licensee name, and change of d/b/a name, the modification form HSMV 86072, Modification to Dealer License For Licensed Motor Vehicle, Mobile Home, or Recreational Vehicle Dealers, application must be used, prior to renewal time. Form HSMV 86072, Modification to Dealer License for Licensed Motor Vehicle, Mobile Home, or Recreational Vehicle Dealers, has detailed lists of required documents for each type of modification. **DO NOT MAIL DEALER LICENSE APPLICATIONS DIRECTLY TO DIVISION OF MOTORIST SERVICES HEADQUARTERS IN TALLAHASSEE.** All applications must be processed at the local Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership. HSMV form 86056, Application for a License Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer, must be used by initial license applicants and for corporate updates on officers of the dealership. These forms can be downloaded from the Department's website at <http://www.flhsmv.gov/html/forms.html>.

When there are no deficiencies or errors in the paperwork submitted, licenses are issued within 5 business days. However, to ensure that licenses are renewed in a timely manner, the law requires that an application for renewal, fee and required documents must be received by the Division thirty (30) days prior to the expiration date of the current license.

The law provides for late penalties and delinquent fees for renewal applications submitted past the expiration date of the previous license but only for forty-five days. In the case of a motor vehicle dealer license, the late penalty is \$100 over and above the renewal fee of \$75. If the license is not renewed with a delinquent fee within a forty-five day period after the expiration date, a new application is required and must be accompanied by the initial license fee. In the case of a mobile home or recreational vehicle dealer, the late penalty and renewal fee is equal to the initial application fee, which in both cases is \$340 (this includes a \$40 fee for the Mobile Home and Recreational Vehicle Protection Trust Fund).

The successful processing of a renewal application depends on the completeness of the application including the attachment of all necessary documentation. For example, all dealers must submit continuation certificates or newly issued surety bonds or irrevocable letters of credit, covering the new licensing period and reflecting the effective renewal date, and, where applicable, certification or continuance of garage liability insurance. Also a copy of the current registration of the business and fictitious name(s) with the Division of Corporations (on-line access at www.sunbiz.com) must be submitted with the renewal application. In addition each independent dealer (VI) shall certify that the dealer (owner, partner, officer, or director of the licensee or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuing education prior to filing the renewal forms with the Department. Such certification shall be filed once every two years. The training schools will provide a certificate of completion which the independent dealer will submit with the renewal application form.

R. TRANSFER OR ASSIGNMENT OF LICENSE

Dealer licenses issued by the Department are not transferable or assignable. The state issued license may not be considered part of a buy/sell agreement of a franchised dealership. A license does not automatically get transferred by a court order directing the change of the ownership of a licensed dealer. In such cases, the transferee, assignee, buyer, or other person(s) receiving the benefits of the dealership, are required to apply for a license in their own individual or business name.

S. PROHIBITION

15C-7.003(7), F.A.C.

No licensed motor vehicle dealer shall authorize or knowingly permit or allow any person, employee, agent, or representative to use the dealer's license identification number to effect a sale of a motor vehicle, a title transfer, or a registration transaction for the sale of a motor vehicle wherein the purchaser of that motor vehicle was not given notice that the sale, transfer, or registration was not made by a licensed motor vehicle dealer.

PART IV

Manufacturers, Importers and Distributors

Section 320.60, F.S.

Definitions:

Manufacturer - Any person, whether a resident or nonresident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. The term "manufacturer" includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, it distributes its products.

Distributor - Any person, resident or nonresident, who, in whole or in part, sells or distributes motor vehicles to motor vehicles dealers or who maintains distributor representatives.

Importer - Any person who imports vehicles from a foreign country into the United States or into this state for the purpose of sale or lease.

A. TYPES OF LICENSES ISSUED 320.60-320.70, 320.8225 F.S.

The Department issues a number of categories of dealer licenses. The license prefix designations and descriptions are:

- a. **MV**: this is the prefix for a Motor Vehicle Manufacturer. This type of license allows a licensee to retail their line-makes through their own franchise dealer license or through a network of franchise dealers licensed and approved by the Department.
- b. **MD**: this is the prefix for a Motor Vehicle Distributor. This type of license allows a licensee to retail their line-makes through their own franchise dealer license or distribute them through a network of franchise dealers licensed and approved by the Department.
- c. **MI**: this is the prefix for a Motor Vehicle Importer. This type of license allows a licensee to import motor vehicles into the country and retail their line-makes through their own franchise dealer license or through a network of franchise dealers licensed and approved by the Department.

- d. **MH**: this is the prefix for a Mobile Home Manufacturer. This type of license allows a licensee to engage in the business of a mobile home manufacturer in this state, or manufacture mobile homes out of state which are ultimately offered for sale in this state and for each factory location out of state which manufactures mobile homes for sale in this state, prior to distributing or importing mobile homes for sale in this state.
- e. **MR**: this is the prefix for a Recreational Vehicle Manufacturer. This type of license allows a licensee to engage in the business of a recreational vehicle manufacturer in this state, or manufacture recreational vehicles out of state which are ultimately offered for sale in this state and for each factory location out of state which manufactures recreational vehicles for sale in this state, prior to distributing or importing mobile homes for sale in this state. This type of license allows a licensee to engage in the business of a recreational vehicle distribution in this state, either through their own recreational vehicle dealer’s licenses (prefix “RV”) or distribute through a network of recreational vehicle dealers that are approved and licensed by the Department.
- f. **RD**: this is the prefix for a Recreational Vehicle Distributor. This type of license allows a licensee to engage in the business of a recreational vehicle distributor in this state, either through their own recreational vehicle dealer’s license (prefix “RV”) or distribute through a network of recreational vehicle dealers that are approved and licensed by the Department.
- g. **RI**: this is the prefix for a Recreational Vehicle Importer. This type of license allows a licensee to engage in the business of a recreational vehicle distribution in this state, either through their own recreational vehicle dealer’s license (prefix “RV”) or wholesale through a network of recreational vehicle dealers that are approved and licensed by the Department.

B. LICENSING PERIODS
320.62, and 320.8225(3) F.S.

All manufacturer, distributor and importer licenses issued are for a maximum period of one year. The licensing periods are as follows:

Manufacturers of motor vehicles (MV)	October 1-September 30
Distributors of motor vehicles (MD)	October 1-September 30
Importers of motor vehicles (MI)	October 1-September 30
Mobile home manufacturers (MH)	October 1-September 30
Recreational vehicle manufacturers (MR)	October 1-September 30
Recreational vehicle distributors (RD)	October 1-September 30
Recreational vehicle importers (RI)	October 1-September 30

Even if a license is issued in the middle or near the end of the annual licensing period, the license will expire on the date all licenses in that same category expire. As noted below, license fees will not be

prorated. Thus, an applicant seeking an initial license near the end of a license period may wish to delay the effective date of the license until the beginning of the new license year. **However, applicants are reminded that they may not engage in business until their license becomes effective.** To do otherwise is a serious violation of the law and title work will not be processed.

C. LICENSE FEE SCHEDULE:

License Type	Original License Fee	Renewal Fee	Mobile Home and Recreational Vehicle Protection Trust Fund Fee
MV	\$300.00	\$100.00	
MI	\$300.00	\$100.00	
MD	\$300.00	\$100.00	
MH	\$300.00	\$100.00	\$40.00
MR	\$300.00	\$100.00	\$40.00
RD	\$300.00	\$100.00	\$40.00
RI	\$300.00	\$100.00	\$40.00

NOTE: Pursuant to section 320.781, Florida Statutes, the Department charges mobile home manufacturers and recreational vehicle manufacturers, distributors and importers a fee of \$40.00 per annual dealer and manufacturer license and license renewal which is deposited in the mobile home and recreational vehicle protection trust fund.

D. SURETY BOND

Mobile home manufacturers and recreational vehicle manufacturers, distributors and importers are required to provide assurance by obtaining a surety bond in the amount as prescribed for the type of license they are applying. The original bond must be issued to expire at the end of the licensing period of the type of motor vehicle dealers license applied. Subsequent bonds or continuation certificates must be issued concurrent with the licensing period. The surety bond must be issued in the exact name, to include all fictitious trade names and executed on a form provided by the Division of Motorist Services. Substitute forms will not be accepted. There must be no alterations, erasures or "white out" on the form. The name of the business and signature of the principal or licensee is required on the bond. The names, addresses and telephone numbers of the bond company and surety agent are also required on the bond. The bond company must also affix their seal. The original bond form and power of attorney form from the bond company must be submitted with the mobile home manufacturer and recreational vehicle manufacturer, importer or distributor license application (to access Surety Bond for mobile home manufacturers form HSMV 86050, and surety bond form for recreational vehicle manufacturers, distributors, importers or van converters HSMV 86051, please visit the Department's website at <http://www.flhsmv.gov/html/forms.html>.) **If during the licensing year**

the dealership cancels its surety bond and obtains a replacement bond with another firm, this information must be brought to the attention of the applicable regional office of the Division of Motorist Services IMMEDIATELY.

Continuous surety bond coverage is required through the licensing year. Replacement bonds must have an effective date on or prior to the cancellation date of the previous bond.

<u>Type of License</u>	<u>Amount of Bond</u>	<u>Term of Bond</u>
Mobile home manufacturer	\$50,000	Oct 1-Sept 30
Recreational vehicle manufacturer, importer, or distributor	\$10,000	Oct 1-Sept 30

NOTE: The amount of surety bond coverage required of mobile home manufacturers is \$50,000. Only one surety bond is required for each manufacturer, regardless of the number of factory locations.

The amount of surety bond coverage required of recreational vehicle manufacturers is \$10,000. A surety bond is required for each manufacturer, for each recreational plant licensed by the Department.

E. IRREVOCABLE LETTER OF CREDIT

Only mobile home manufacturers may submit an irrevocable letter of credit. Applicants for a mobile home manufacturer's license may provide an irrevocable letter of credit on form HSMV 86059, issued by a Florida bank in the amount of \$50,000. The letter of credit must be submitted on form HSMV 86059 Irrevocable Letter of Credit (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access these forms). Substitute forms cannot be accepted. The following items are required on the letter of credit:

1. The **exact** business name and all fictitious names to be used by the dealership as it are registered with the Secretary of State. In the case of a sole proprietorship or a partnership the names of the owner, or partners must be listed on the surety bond (example John Doe d/b/a Sun Drop Auto Sales or John Doe and Robert Smith d/b/a Doe & Smith Auto Sales);
2. The name of the bank;
3. The number assigned by the bank;
4. The effective date;

5. The expiration date;
6. Signature of the bank officer;
7. Title of the bank officer;
8. Name of the bank;
9. Address of the bank;
10. Telephone number of the bank;
11. Name of the business;
12. Signature of the principal of the business;
13. Typed or printed name of the principal;
14. Address of the dealership; and
15. Seal of the bank or stamp or an electronic seal.

The irrevocable letter of credit must be issued for the term of the license, and be reissued each year.

Although a new bond or a continuation certificate is required each year, the assurance provided by the bond or the irrevocable letter of credit remains in force and effect until the statutes of limitations prohibit claims of any nature from being filed against the bond. The surety bond or letter of credit covers transactions at all locations. This time may vary anywhere from three to five years following the year for which the bond or letter of credit was issued.

If during the licensing year the licensee cancels its letter of credit, and obtains a replacement letter of credit with another firm, this information must IMMEDIATELY be brought to the attention of the applicable Motor Vehicle Field Office.

F. LOW SPEED VEHICLES

Low Speed Vehicle (LSV) is a four wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour (mph), including neighborhood electric vehicles. Any vehicle capable of exceeding 25 miles per hour would fall under the Federal Motor Vehicle Safety Standards for passenger cars. LSV's which include modified personal

neighborhood vehicles (PNV), neighborhood electric vehicles (NEV) and golf cars, having a maximum speed greater than 20 mph, but not greater than 25 mph, fall under the Federal Motor Vehicle Safety Standard No 500 (49 CFR 571.500). A low speed vehicle may be operated only on streets where the posted speed limit is 35 mph or less. This does not prohibit a LSV from crossing a road or a street at an intersection where the road or street has a posted speed limit of more than 35 mph. Therefore, a manufacturer of LSV must be licensed by the Department and a dealer selling the LSV's must be a licensed franchise dealer. Golf carts are sometimes converted to meet the low speed vehicle requirements and are referred to as golf cars. Manufacturers of new golf cars have to be licensed as per section 320.60. Golf cars, having a maximum speed greater than 20 mph, but not greater than 25 mph, fall under the Federal Motor Vehicle Safety Standard No 500 (49 CFR 571.500). At present golf cars with a maximum speed of less than 20 mph are not required to comply with the LSV standard but are still subject to state and local regulations.

Used and new golf carts that are converted as golf cars with a maximum speed greater than 20 mph, but not greater than 25 mph will be titled as assembled from parts (ASPT). Dealers who sell used golf cars or golf carts converted into LSV's must be licensed as independent dealers.

A golf cart that is converted to a low speed vehicle conforms to title 49 CFR part 571.500 and section 316-2126, Florida Statutes, and must have the following:

- Headlamps;
- Stop lamps;
- Tail lamps;
- Front and rear turn signal lamps;
- Windshield with an ASI or AS5 composition;
- Type 1 or type 2 seat belt assembly conforming to Section 571.209 of this part, Federal Motor Vehicle Safety Standard No. 209, seat belt assemblies at each designated seating position;
- An exterior mirror on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;
- Parking brakes;
- Reflex reflectors: one red on each side as far to the rear as practicable, and one red on the rear;
- Windshield cleaning device pursuant to, section 316.2952 (3) (4), Florida Statutes;
- Horn pursuant to section 316.271 (1), Florida Statutes;
- Slow Moving Vehicle Emblem (SMV) pursuant to section 316.225 (7) (a) (b) Florida Statutes; and
- Illuminated rear license plate bracket.

G. Licensing Requirements for Manufacturers, Importers or Distributors of Motor Vehicles, Motorcycles Greater than 50 cc's or 1492 watts or 2 bhp, Low Speed Vehicles, Mini-Trucks and Tri-Vehicles

Pursuant to section 320.60, Florida Statutes, a manufacturer means “any person, whether a resident or non-resident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. The term “Manufacturer” includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, it distributes its products.

Pursuant to section 319.21(2), Florida Statutes, “When a motor vehicles is built in two or more stages, each manufacturer must provide a manufacturer’s statement of origin for each stage.” The Manufacturer’s Statement of Origin (MSO) from the manufacturer of the incomplete chassis will reflect their line-make and vehicle identification number (VIN). After the installation, the vehicle will be considered a complete vehicle, and a second stage MSO will be required to be issued by the final stage manufacturer. The second stage MSO will continue to reflect the vehicle identification number (VIN) of the first manufacturer, but the line-make will be one that has been assigned by the National Crime Information Center (NCIC), Federal Bureau of Investigation’s for the complete vehicle. All second stage manufacturers licensed by the Department must provide their dealers with both the first stage MSO and the second stage MSO for titles and registration purposes at the Tax Collectors’ Offices.

Pursuant to section 320.60 (14), Florida Statutes, “Line-make vehicles are those motor vehicles which are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer of the same.”

Section 320.63, Florida Statutes, provides the requirements for applicants of motor vehicle manufacturer, importer or distributor licenses.

The following documents are required by the Department from manufacturer, importer or distributor license applicants for motor vehicles, and motorcycles with an engine displacement greater than 50 cc's or greater than 2bhp or greater than 1492 watts, low speed vehicles (LSV), mini-trucks, and tri-vehicles.

1. Complete both sides of application form HSMV 84256. This form can be accessed at <http://www.flhsmv.gov/html/forms.html>.
2. Distributor or Importer applicants must provide copies of an agreement between the manufacturer and themselves authorizing the applicant to distribute or import the manufacturer's vehicles. The agreement must be dated and signed by both parties.

3. A current financial statement must be included with application.
4. A certified copy of the product warranty in any way connected with the motor vehicle or any component thereof must be submitted with application.
5. Federal Employer Identification Number must be submitted with application.
6. For corporations, a copy of their Articles of Incorporation as filed with the Division of Corporations in the office of Secretary of State must be submitted with the application. A foreign corporation (i.e., one from out-of-state) must also submit a copy of its Articles of Incorporation as filed with Secretary of State or a copy of its Articles of Incorporation as filed in their home state; Limited Liability Companies must submit a copy of their Articles of Organization and Operating Agreement with the application; or Partnerships must submit a copy of their Partnership Agreement with the application.
7. Proof of registration with the Florida Secretary of State, Division of Corporations to conduct business in Florida, must be provided with your application. You may find information about this process on-line from the Division of Corporations at www.sunbiz.org.
8. Proof of registration of fictitious name(s) with the Florida Secretary of State, Division of Corporations (on-line access at www.sunbiz.org).
9. Pursuant to section 320.645, Florida Statutes, a licensed manufacturer, distributor or importer can either wholesale or retail. This means the law does not permit a licensed manufacturer, distributor or importer to engage in both retail and wholesale at the same time. Therefore, if an applicant wishes to wholesale through franchised dealers; a list of Florida dealers they intend to establish must be submitted with the application, or if they wish to retail by engaging in direct sale; they must submit an affidavit stating that they will be applying for your franchise dealer's license as soon as they are licensed by the Department as a manufacturer, distributor or importer.
10. Manufacturers of Low Speed Vehicles (LSV) – All Manufacturers Certificates of Origin (MCO) must include the statement: "This vehicle conforms to Federal Regulations under Title 49 CFR Part 571.500."
11. If applicable, a copy of dealer service agreement must be submitted with application.
12. An affidavit that has the following language, "The terms or provisions of the agreement, or any related documents, are not inconsistent with, or contrary to the provisions contained in sections 320.60-320.70, Florida Statutes. Any Franchise agreement offered to a motor

vehicle dealer in this state and shall provide that all terms and conditions in such agreement inconsistent with the law and rules of this state are of no force and effect.”

13. Copies of all applicable warranty labor rates and parts agreements must be provided with application.
14. A certified copy of all applicable preparation and delivery charge obligations of the dealer must be submitted with application.
15. Check payable to DHSMV in the amount of \$300 must be submitted with application.
16. A photo of the vehicle being manufactured distributed or imported or a brochure with pictures and specifications of the vehicle must be provided with application.
17. An affidavit stating that the line-make(s) meets all certification requirements set forth by the U.S. Department of Transportation must be submitted with application.
18. **World Manufacturing Identifier (WMI). Further information regarding registration as a manufacturer, Importer, or Distributor may be obtained on-line from the National Highway Traffic Safety Administration (NHTSA) at www.nhtsa.gov.** Before a manufacturer can offer motor vehicles for sale in the United States, a manufacturer must designate an agent for service of process in this country (Title 49 CFR 551.45) (Procedural Rules). It must also apply for its own world manufacturing identifier (WMI), comprising the first three characters of the vehicle identification number which must be affixed to the vehicles it manufactures. In addition:
 - Title 49 CFR part 565 (Vehicle Identification Number Requirements),
 - Title 49 CFR part 566 (Manufacturer Identification) and
 - Title 49 CFR part 567 (Certification), the certification label constitutes the manufacturers certification that the motor vehicle "conforms to all applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture." Copies of any letters from NHTSA verifying that you have met these requirements must be provided to the Department with your application.

Additional information on other requirements for new vehicle manufacturers can be obtained from NHTSA by phone at 202-366-5302, or by fax 202-493-0073, or on-line at www.nhtsa.gov.

19. Once the Department receives the completed application and required documents listed above, the Department will request the National Crime Information Center (NCIC) to assign a "line-make" which will be reflected on the Manufacturer's Statement of Origin (MSO) or

the Manufacturer's Certificate of Origin (MCO). Once the line-make has been assigned by NCIC, the Department will fax or email the applicant a sample of the MSO. The applicant must provide the Department an original sample of your MSO or MCO based on the faxed or emailed sample. The applicant may stamp "VOID" or "SPECIMEN" across the front of the MSO. The MSO or MCO must be printed in accordance with the attached specification set forth by the State of Florida. If the vehicle is an electric motorcycle the MSO or MCO must state the displacement of engine in Watts. If the vehicle is a gas powered motorcycle the displacement of the engine must be stated in cubic centimeters.

Please Note: Applicant must not send the MSO or MCO with their application until their line-make has been assigned and the Department has faxed or emailed them a sample.

Additional Requirements for 1st and 2nd Stage Manufacturers

20. Pursuant to section 320.60 (9), Florida Statutes, a manufacturer means any person, whether a resident or non-resident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. The term "Manufacturer" includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, it distributes its products.
21. Pursuant to section 319.21(2), Florida Statutes, "When a motor vehicle is built in two or more stages, each manufacturer must provide a manufacturer's statement of origin for each stage." Such a manufacturer must be registered with a National license with the Department. The second stage Manufacturer's Statement of Origin (MSO) from the final stage manufacturer of the incomplete chassis will reflect their own line-make (assigned by National Crime Investigation Center) and vehicle identification number (VIN) of the manufacturer of the truck chassis. A second stage manufacturer must provide both the first stage and second stage manufacturer's statement of origin to their dealers as they are both required in the title and registration process at the tax collectors' offices. Original samples of both the 1st and 2nd stage MCOs must be submitted with the application.

Additional Requirements for Tri-Vehicle Manufacturers, Importers, or Distributors

22. Please submit a copy of the registration from the National Highway Traffic Safety hat are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, "Seating Systems" (49 C.F.R. s. 571.207);
 - A steering wheel used to maneuver the vehicle;

- A propulsion unit located forward or aft of the enclosed occupant compartment;
- A seat belt for each vehicle occupant certified to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, "Seat belt assemblies" (49 C.F.R. s. 571.209);
- A windshield and an appropriate windshield wiper and washer system that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, "Glazing Materials" (49 C.F.R. s. 571.205) and Federal Motor Vehicle Safety Standard No. 104, "Windshield Wiping and Washing Systems" (49 C.F.R. s. 571.104); and
- A vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, "Rollover crush resistance" (49 C.F.R. 274 s. 571.216).

Please Note: Pursuant to section 320.645 Florida Statutes, "No distributor, manufacturer, or agent of a manufacturer or distributor, or any parent, subsidiary, common entity, or officer or representative of the licensee shall own or operate, either directly or indirectly, a motor vehicle dealership in this state for the sale or service of motor vehicles which have been or are offered for sale under a franchise agreement with a motor vehicle dealer in this state..." What this means is that a licensed manufacturer, distributor or importer can either wholesale or retail. The law does not permit a licensed manufacturer, distributor or importer to engage in both retail and wholesale at the same time. Therefore, a licensed manufacturer, distributor or importer can wholesale through franchised dealers who must be approved by the Department or retail by engaging in direct sale and meeting the licensing requirements as a franchise dealer.

Manufacturers, importers or distributors and dealers must meet the licensing requirements with the Department in order to sell motor vehicles, motorcycles with an engine displacement greater than 50 cc's or greater than 2bhp or greater than 1492 watts, low speed vehicles (LSV), mini-trucks, and tri-vehicles.

H. The following documents are required from a manufacturer, importer or distributor license applicant of motorcycles with an engine displacement 50 cc's, or less, or 2bhp or less, or 1492 watts or less:

1. Complete both sides of application form HSMV 84256, Application for a License as a Motor Vehicle or Recreational Vehicle Manufacturer, Importer or Distributor, or a Mobile Home Manufacturer. This form can be accessed at <http://www.flhsmv.gov/html/forms.html>.
2. Distributor or Importer applicants must provide copies of an agreement between the manufacturer and themselves authorizing the applicant to distribute or import the manufacturer's vehicles. The agreement must be dated and signed by both parties.
3. A current financial statement must be included with application.

4. A certified copy of the product warranty in any way connected with the motor vehicle or any component thereof must be submitted with application.
5. Federal Employer Identification Number must be submitted with application.
6. For corporations, a copy of their Articles of Incorporation as file with the Division of Corporations in the office of Secretary of State must be submitted with the application. A foreign corporation (i.e., one from out-of-state) must also submit a copy of its Articles of Incorporation as filed with Secretary of State or a copy of its Articles of Incorporation as filed in their home state; Limited Liability Companies must submit a copy of their Articles of Organization and Operating Agreement with the application; or Partnerships must submit a copy of their Partnership Agreement with the application.
7. Proof of registration with the Florida Secretary of State, Division of Corporations to conduct business in Florida, must be provided with your application. You may find information about this process on-line from the Division of Corporations at www.sunbiz.org.
8. Proof of registration of fictitious name(s) with the Florida Secretary of State, Division of Corporations (on-line access at www.sunbiz.org).
9. A check payable to the Division of Motorist Services (DIVISION OF MOTORIST SERVICES) in the amount of \$300 must be submitted with application.
10. A photo of the vehicle(s) being manufactured, distributed or imported, or a brochure with pictures and specifications of the vehicle(s) must be included with application.
11. An affidavit stating that the line-make(s) meets all certification requirements set forth by the U.S. Department of Transportation must be submitted with application.
12. World Manufacturing Identifier (WMI) – Further information regarding registration as a manufacturer, Importer or Distributor may be obtained on-line from the National Highway Traffic Safety Administration at www.nhtsa.gov. Before a manufacturer can offer motorcycles, with an engine displacement of 50 cc's or less, for sale in the United States, a manufacturer must designate an agent for service of process in this country (Title 49 CFR 551.45) (Procedural Rules). It must also apply for its own world manufacturing identifier (WMI), comprising the first three characters of the vehicle identification number which must be affixed to the vehicles it manufactures. In addition:
 - Title 49 CFR part 565 (Vehicle Identification Number Requirements),
 - Title 49 CFR part 566 (Manufacturer Identification) and

- Title 49 CFR part 567 (Certification), the certification label constitutes the manufacturer's certification that the motor vehicle "conforms to all applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture." Copies of any letters from NHTSA verifying that you have met these requirements must be provided to the Department with your application.

Additional information on other requirements for new vehicle manufacturers can be obtained from NHTSA by phone at 202-366-5302, or by fax 202-493-0073, or on-line at www.nhtsa.gov.

13. Once the Department receives the completed application and required documents listed above, the Department will request the National Crime Information Center (NCIC) to assign a "line-make" which will be reflected on the Manufacturer's Statement of Origin (MSO) or the Manufacturer's Certificate of Origin (MCO). Once the line-make has been assigned by NCIC, the Department will fax or email the applicant a sample of the MSO. The applicant must provide the Department an original sample of their MSO or MCO based on the faxed or emailed sample. The applicant may stamp "VOID" or "SPECIMEN" across the front of the MSO. The MSO or MCO must be printed in accordance with the attached specification set forth by the State of Florida. If the vehicle is an electric motorcycle the MSO or MCO must state the displacement of engine in Watts. If the vehicle is a gas powered motorcycle the displacement of the engine must be stated in cubic centimeters. **Please Note: The applicant must not send the MSO or MCO with their application until their line-make has been assigned and the Department has faxed or emailed them a sample.**

Please Note: A franchise dealer's license is not required to sell motorcycles with an engine displacement 50 cc's, or less, or 2bhp or less, or 1492 watts or less. However, the manufacturer, importer or distributor of the motorcycles with an engine displacement 50 cc's, or less, or 2bhp or less, or 1492 watts or less, must be licensed by the Department.

In short manufacturers, importers and distributors of motorcycles regardless of the displacement must meet the licensing requirements with the Department.

I. DENIAL, SUSPENSIONS, OR REVOCATION OF LICENSE

Section 320.64, Florida Statutes, provides the grounds for a license of a licensee under section 320.61, Florida Statutes, to be denied, suspended, or revoked.

J. DISCONTINUATIONS, CANCELLATIONS, NON-RENEWALS, MODIFICATIONS, AND REPLACEMENT OF FRANCHISE AGREEMENTS

Section 320.642, Florida Statutes, provides the requirements for discontinuations, cancellations, non-renewals, modifications, and replacement of franchise agreements.

Pursuant to section 320.641(1)(a), Florida Statutes, a licensed manufacturer, must give a written notice to the motor vehicle dealer and the Department when they wish to terminate their authorized dealership.

As per section 320.641(3), Florida Statutes, “any motor vehicle dealer who receives a notice of intent to discontinue, cancel, not renew, modify or replace may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, non-renewal, modification, or replacement...”

Upon receipt of the notice of termination from the manufacturer, importer or distributor, the Department mails or e-mails a notice to the concerned dealer with a copy of the termination notice advising them of the 90-day period within which to file written petition with the Division of Motorist Services, Dealer License Section in Tallahassee. If a petition is received from the concerned dealer; the case is forwarded to the Department of Administrative Hearings. However, if no petition is received the Dealer License Section will advise the Motor Vehicle Field Office responsible for the dealership to make arrangements to either collect the license, temporary tags and temporary plates if that is the only line-make the dealer is selling, or if the line-make that is being terminated is one of many line-makes that the dealer sells; the Motor Vehicle Field Office will make arrangements for the dealer to delete the specific line-make stated in the termination notice.

K. RESTRICTION UPON OWNERSHIP OF DEALERSHIP BY LICENSEE

Pursuant to section 320.645 Florida Statutes, “No distributor, manufacturer, or agent of a manufacturer or distributor, or any parent, subsidiary, common entity, or officer or representative of the licensee shall own or operate, either directly or indirectly, a motor vehicle dealership in this state for the sale or service of motor vehicles which have been or are offered for sale under a franchise agreement with a motor vehicle dealer in this state...” What this means is that a licensed manufacturer, distributor or importer can either wholesale or retail. The law does not permit a licensed manufacturer, distributor or importer to engage in both retail and wholesale at the same time. Therefore, a licensed manufacturer, distributor or importer can wholesale through franchised dealers who must be approved by the Department or retail by engaging in direct sale and meeting the licensing requirements as a franchise dealer.

L. LICENSING REQUIREMENTS FOR MOBILE HOME MANUFACTURERS AND RECREATIONAL VEHICLE MANUFACTURERS, IMPORTERS OR DISTRIBUTORS

Pursuant to section 320.8225, Florida Statutes, a license is required if any person who engages in the business of a mobile home manufacturer or recreational vehicle manufacturer in this state, or who manufactures mobile homes or recreational vehicles out of state which are ultimately offered for sale in this state and for each factory location out of state which

manufactures mobile homes or recreational vehicles for sale in this state, prior to distributing or importing mobile homes or recreational vehicles for sale in this state.

AN APPLICANT FOR A MOBILE HOME MANUFACTURER'S LICENSE MUST SUBMIT THE FOLLOWING DOCUMENTS WITH THEIR APPLICATION:

1. Complete both sides of the application form, HSMV 84256.
2. Check payable to the DHSMV in the amount of \$340 must be submitted with the application.
3. A current financial statement must be submitted with the application.
4. A copy of the product warranty must be included with the application.
5. Complete statement of any service agreement or policy to be utilized by the applicant must be submitted with this application.
6. Surety bond or letter of credit in the amount of \$50,000 for mobile home manufacturers must be submitted with the application. Form HSMV 86050, Surety Bond Mobile Home Manufacturer can be accessed on the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86050.pdf>.
7. Federal Employer Identification Number (FEID) must be submitted with application.
8. For corporations, a copy of their Articles of Incorporation as file with the Division of Corporations in the office of Secretary of State must be submitted with the application. A foreign corporation (i.e., one from out-of-state) must also submit a copy of its Articles of Incorporation as filed with Secretary of State or a copy of its Articles of Incorporation as filed in their home state; Limited Liability Companies must submit a copy of their Articles of Organization and Operating Agreement with the application; or Partnerships must submit a copy of their partnership agreement with the application.
9. Proof of registration with the Florida Secretary of State, Division of Corporations, to conduct business in Florida, must be submitted with application. Further information about this process can be accessed on-line at the Division of Corporations at www.sunbiz.org.
10. Proof of registration of fictitious name(s) with the Florida Secretary of State, Division of Corporations must be submitted with the application. Further information about this process can be accessed on-line from the Division of Corporations at www.sunbiz.org.
11. A sample of your original Manufacturer's Statement of Origin (MSO) or Manufacturers Certificate of Origin (MCO) your company intends to issue must be submitted with your

application. The MSO or MCO must be printed in accordance with the attached specification set forth by the State of Florida. The MSO can be stamped "Void" or "Specimen" across the front.

Manufacturers, Distributors and Importers of Recreational Vehicles

Pursuant to section 320.3203 (1), Florida Statutes, manufacturer or distributor may not sell a recreational vehicle in this state to or through a dealer without having first entered into a manufacturer/dealer agreement with a dealer which has been signed by both parties.

Section 320.3203(2)(3), Florida Statutes further requires that the manufacturers, distributors and importers to designate in the agreement a market area for the dealer, where the dealer has exclusive right to display or sell the manufacturer's new recreational vehicles of a particular line-make. Such designations may not be changed for a period of one year.

The law prohibits a dealer from selling outside of its market area unless it obtains an offsite/supplemental license and meets one of the set forth criteria.

- If another dealer of the same line-make and their manufacturer allows them into their market area protected by a signed written agreement which:
 - a) Designates the line-make of the recreational vehicles to be sold;
 - b) Sets forth the time period for the off-site premise sale; and
 - c) Affirmatively authorizes the sale of the same line-make of the recreational vehicles.
- If the sale is in conjunction with a public trade show and in an open market area which is not protected by a manufacturer/dealer agreement
- If the sale is in conjunction with a manufacturer-funded trade show involving more than 35 dealers and is located at a site that:
 - a) Will be used to display and sell recreational vehicles;
 - b) Is not used for off-premise sales for more than 10 days in a calendar year; and
 - c) Is not the location set forth on any dealer's license as its place of business.

An applicant for a recreational vehicle manufacturer, distributor, or importer's license must submit the following documents with their application

1. Complete both sides of the application form, HSMV 84256.

2. Check payable to the DHSMV in the amount of \$340 must be submitted with the application.
3. Distributor or Importer applicants must provide copies of an agreement between the manufacturer and themselves authorizing the applicant to distribute or import the manufacturer's recreational vehicles. The agreement must be dated and signed by both parties.
4. A current financial statement must be submitted with the application.
5. A copy of the product warranty must be included with the application.
6. Surety bond in the amount of \$10,000 for recreational vehicle manufacturers, distributors or importers must be submitted with the application. Form HSMV 86051, Surety Bond Recreational Vehicle Manufacturer or Van Converter, can be accessed on the Department's website at <http://www.flhsmv.gov/dmv/forms/BFO/86051.pdf>.
7. Federal Employer Identification Number (FEID) must be submitted with application.
8. For corporations, a copy of their Articles of Incorporation as file with the Division of Corporations in the office of Secretary of State must be submitted with the application. A foreign corporation (i.e., one from out-of-state) must also submit a copy of its Articles of Incorporation as filed with Secretary of State or a copy of its Articles of Incorporation as filed in their home state; Limited Liability Companies must submit a copy of their Articles of Organization and Operating Agreement with the application; or Partnerships must submit a copy of their partnership agreement with the application.
9. Proof of registration with the Florida Secretary of State, Division of Corporations, to conduct business in Florida, must be submitted with application. Further information about this process can be accessed on-line at the Division of Corporations at www.sunbiz.org.
10. Proof of registration of fictitious name(s) with the Florida Secretary of State, Division of Corporations, must be submitted with the application. Further information about this process can be accessed on-line from the Division of Corporations at www.sunbiz.org.
11. The Florida law does not permit a licensed manufacturer, distributor or importer to engage in both retail and wholesale at the same time. Therefore, if you wish to wholesale through Florida dealers; a list of Florida dealers you intend to establish must be submitted with the application, or if you wish to retail by engaging in direct sale; you must submit an affidavit that you will be applying for your recreational vehicle dealer license as soon as you are licensed by the Department as a manufacturer, distributor or importer.

12. If applicable, a copy of the dealer service agreement must be submitted with the application.
13. A photo of the recreational vehicle(s) being manufactured, distributed or imported; or a brochure with pictures and specifications of the recreational vehicle(s) must be included with the application.
14. **a)** An affidavit stating that the recreational vehicle line-make(s) meets the Uniform Standards Code approved by the American National Standards Institute, ANSI A-119.2.

b) An affidavit stating that the park trailer meets the Uniform Standards Code approved by the American National Standards Institute, ANSI A-119.5 or the U.S. Department of Housing and Urban Development standard for park trailers certification as meeting that standard.

Please Note: This affidavit is not required for conversion companies that add living quarters to trailers.

15. World Manufacturing Identifier (WMI) – Further information regarding registration as a manufacturer, distributor or importer may be obtained on-line from the National Highway Traffic Safety Administration (NHTSA) at www.nhtsa.gov. The certification label constitutes the manufacturer's certification that the recreational vehicle "conforms to all applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture." Copies of any letters from NHTSA verifying that the manufacturer has met these requirements must be provided to the Department with the application.

Additional information and requirements for new recreational vehicle manufacturers can be obtained from NHTSA by phone at 202-366-5302, or by fax at 202-493-0073, or on-line at www.nhtsa.gov.

Please Note: The above stated NHTSA registration is not required for applicants applying for a recreational vehicle manufacturer's license for park model trailers.

The above stated NHTSA registration is not required for conversion companies that add living quarters to trailers applying for a recreational vehicle manufacturer's license.

16. Conversion companies that add living quarters to trailers must submit a copy of their registration with NHTSA for Title 49 CFR Part 567.2 -.3 -.4 etc., where an alterer must affix its alterer's certification label adjacent to the original manufacturer's certification label (in the case of a trailer altered to include living quarters). The pair of certification labels must be visible at the left (driver's side) front corner of the trailer. For further information and

requirements, please contact NHTSA by telephone at 202-366-5302, or by fax at 202-493-0073, or visit NHTSA on-line at www.nhtsa.gov.

17. Once the Department receives your completed application and required documents listed above, the Department will request the National Crime Information Center (NCIC) to assign you a "line-make" which will be reflected on your Manufacturer's Statement of Origin (MSO) or your Manufacturer's Certificate of Origin (MCO). Once the line-make has been assigned by NCIC, the Department will fax or email you a sample of the MSO. Please provide the Department an original sample of your MSO or MCO based on the faxed or emailed sample. You may stamp "VOID" or "SPECIMEN" across the front of the MSO. The MSO or MCO must be printed in accordance with the attached specification set forth by the State of Florida.

18. Additional Requirements for Conversion Companies:
Submit 1st and 2nd Stage Manufacturer's Certificate of Origin as per section 319.21 (2), Florida Statutes.

PART V

Dealer Operations

A. RECORDS KEEPING

1. REQUIREMENTS

319.35, 319.23(3)(2)(b), 320.27(3), 320.27(6), 320.27(7), 320.27(9)(b)5, F.S.

Florida Statutes require an applicant for any dealer license to certify that the location where the business is to be conducted provides an adequately equipped office space where the applicant can, in good faith, carry on such business and keep and maintain books, records, and files necessary to conduct such business. The law also requires records to be available at all reasonable hours to inspection by the Department, any of its Compliance Examiner, or other employees.

Section 320.27, Florida Statutes, provides for the regulation and licensing of motor vehicle dealers. Section 320.77, Florida Statutes, provides for the regulation and licensing of mobile home dealers. Section 320.771, Florida Statutes, provides for the regulation and licensing of recreational vehicle dealers.

Sections 320.27(3), 320.771(3)(h) and 320.77(3)(h), Florida Statutes, require that an applicant for a license certify that the business location of his business provides an adequately equipped office where the applicant can in good faith carry on such business and keep and maintain books, records and files necessary to conduct such business, which will be available at all reasonable hours for inspection by the Department, any of its Compliance Examiner, or other employees. These statutes require dealers to maintain records. These statutes also create the authority for inspection of records by members of this agency. However, these subsections do not specify what records are to be kept.

a. Sections 320.27(6), 320.771(9) and 320.77(8), Florida Statutes, require dealers to keep information regarding motor vehicle, mobile home, or recreational vehicle transactions. These laws provide that every licensee shall keep a book or record in **either paper or electronic** form prescribed or approved by the Department for a period of 5 years, in which the licensee shall keep a record of:

1. The purchase, sale or exchange, or receipt for purpose of sale, of any motor vehicle, mobile home or recreational vehicle.
2. The date a temporary tag was issued.
3. The date of title transfer.
4. The name and address of the purchaser.
5. The alleged owner or the person from whom such motor vehicle, mobile home, or recreational vehicle was purchased or received.
6. The name and address of the person to whom the motor vehicle, mobile home, or recreational vehicle was sold or delivered.
7. The vehicle description, identification number or engine number, maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and will also include a statement that a number has been obliterated, defaced, or changed, if such is the fact.
8. The statutes which require dealers to maintain records also provide that the Department will prescribe or approve the form in which the records are to be maintained. The Department has chosen to specify the data elements that must be maintained but will only suggest rather than mandate a specific form or format for records maintenance.

When a licensee chooses to maintain electronic records, the original paper documents may be destroyed after the licensee successfully transfers title and registration to the purchaser as required by chapter 319 for any purchaser who titles and registers the motor vehicle in this state. In the case of a sale to a purchaser who will title and register the motor vehicle in another state or country, the licensee may destroy the original paper documents after successfully delivering a lawfully reassigned title or manufacturer's certificate or statement of origin to the purchaser and after producing electronic images of all documents related to the sale.

- b. Although authority exists for the Department to prescribe or approve the form in which records are maintained by dealers, the Department has chosen to specify the data elements that must be maintained but to only suggest, rather than mandate, a specific form or format for records maintenance with the exception of a numerical temporary tag log form HSMV 84016, Temporary Tag Record). Form HSMV 84016 can be accessed at <http://www.flhsmv.gov/dmv/forms/BFO/84016.pdf>.
- c. Section 320.27(7), Florida Statutes, provides that, “for each used motor vehicle in the possession of a licensee and offered for sale by him or her, the licensee either shall have in his or her possession or control a duly assigned certificate of title from the owner in accordance with the provisions of Chapter 319, F.S., from the time when the motor vehicle is delivered to the licensee and offered for sale by him or her until it has been disposed of by the licensee, or shall have reasonable indicia of ownership or right of possession, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of Chapter 319, F.S. A motor vehicle dealer may not sell or offer for sale a vehicle in his or her possession unless the dealer satisfies the requirements of this subsection. Reasonable indicia of ownership shall include a duly assigned certificate of title; in the case of a new motor vehicle, a manufacturer's certificate of origin issued to or reassigned to the dealer; a consignment contract between the owner and the dealer along with a secure power of attorney from the owner to the dealer authorizing the dealer to apply for a duplicate certificate of title and assign the title on behalf of the owner; a court order awarding title to the vehicle to the dealer; a salvage certificate of title; a photocopy of a duly assigned certificate of title being held by a financial institution as collateral for a business loan of money to the dealer ("floor plan"); a copy of a canceled check or other documentation evidencing that an outstanding lien on a vehicle taken in trade by a licensed dealer has been satisfied and that the certificate of title will be, but has not yet been, received by the dealer; a vehicle purchase order or installment contract for a specific vehicle identifying that vehicle as a trade-in on a replacement vehicle; or a duly executed odometer disclosure statement as required by Title IV of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. No. 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No. 100-561) and by 49 C.F.R. part 580 bearing the signatures of the titled owners of a traded-in vehicle.”

Section 320.77(10), Florida Statutes, provides that, “The licensee shall also have in their possession for each new mobile home a manufacturer's invoice or statement of origin, and for each used mobile home a properly assigned certificate of title or registration certificate if the used mobile home was previously registered in a nontitle state, from the time the mobile home is delivered to the licensee until it has been disposed of by them.”

Section 320.771(10), Florida Statutes, provides that, “(a) the licensee shall also have in their possession for each new recreational vehicle a manufacturer’s invoice or statement of origin.

For each used recreational vehicle in the possession of a licensee and offered for sale, the licensee either shall have in their possession or control a duly assigned certificate of title from the owner in accordance with the provisions of Chapter 319, Florida Statutes, or a registration certificate if the used recreational vehicle was previously registered in a nontitle state, from the time when the vehicle is delivered to the licensee and offered for sale by them until it has been disposed of by the licensee, or shall have reasonable indicia of ownership or right of possession, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of Chapter 319, Florida Statutes. A dealer may not sell or offer for sale a vehicle in their possession unless the dealer satisfies the requirements of this subsection. Reasonable indicia of ownership shall include a duly assigned certificate of title; in the case of a new vehicle, a manufacturer’s certificate of origin issued to or reassigned to the dealer; a consignment contract between the owner and the dealer along with a secure power of attorney from the owner to the dealer authorizing the dealer to apply for a duplicate certificate of title and assign the title on behalf of the owner; a court order awarding title to the vehicle to the dealer; a salvage certificate of title; a photocopy of a duly assigned certificate of title being held by a financial institution as collateral for a business loan of money to the dealer (“floor plan”); a copy of a canceled check or other documentation evidencing that an outstanding lien on a vehicle taken in trade by a licensed dealer has been satisfied and that the certificate of title will be, but has not yet been, received by the dealer; a vehicle purchase order or installment contract for a specific vehicle identifying that vehicle as a trade-in on a replacement vehicle; or a duly executed odometer disclosure statement as required by Title IV of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. No. 92-513, as amended by Pub. L. No. 94-364

and Pub. L. No. 100-561) and by 49 C.F.R. part 580 bearing the signatures of the titled owners of a traded-in vehicle.

Florida Administrative Code, Rule 15C-7.002, requires each dealer to have either made application for a certificate of title or a duplicate certificate of title as required in Chapter 319, Florida Statutes, or shall have in their possession one of the following indicia of ownership or proof of right of possession for each vehicle from the time they acquire each vehicle until the time they dispose of each vehicle:

1. A duly assigned certificate of title.
2. In the case of a new vehicle, a Manufacturer's Statement of Origin issued to or reassigned to the dealer.
3. A consignment contract between the owner and the dealer along with a power of attorney from the owner to the dealer authorizing the dealer to apply for duplicate certificate of title and assign the title on behalf of the owner.

A licensed dealer must have a certificate of title duly assigned by the owner to the dealer for each vehicle offered for sale by the dealer in accordance with section 320.27(7), Florida Statutes. If a dealer has made proper application for a certificate of title or duplicate certificate of title, in accordance with statutory requirements of Chapter 319, Florida Statutes; possession of the title is satisfied.

A duly assigned certificate of title must have the following information entered in the appropriate spaces where provisions are made for such information on the title form:

- 1) Name of the dealer or purchaser;
- 2) The selling price, if sold to anyone other than a licensed dealer;
- 3) The odometer reading;
- 4) The date the odometer was read;

- 5) An indication if the odometer reading is not the actual mileage or if the mileage exceeds mechanical limits of the odometer;
 - 6) The signature and printed names of the transferee and the transferor; and
 - 7) The seller's address;
- d. A motor vehicle dealer is also required to provide a customer or purchaser with a written odometer disclosure statement. All dealers must provide their customers with a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of a motor vehicle. These requirements include the following types of documentation:
- 1) An odometer disclosure statement. The dealer must maintain copies of odometer statements for five (5) years. Section 319.225(4), F.S., exempt vehicles with GVW more than 16,000, and 10 years old or older, or not self-propelled;
 - 2) A sales contract;
 - 3) A purchase agreement;
 - 4) A finance contract;
 - 5) An insurance contract;
 - 6) A warranty agreement;
 - 7) Buyer's guide;
 - 8) Copy of certification of pollution control devices or systems; and
 - 9) Any other agreement relevant to the motor vehicle transaction.

2. INSPECTIONS

The Department, through its representatives, makes periodic inspections to ensure that appropriate records are being kept. Dealers are required to keep accurate records on every motor vehicle purchased or sold, the status of the titles on every vehicle in the dealer's possession and being offered for sale, and complete and accurate records on all temporary tags in the dealer's inventory or those that have been issued including complete and accurate records of all pre-printed stock, electronic temporary plates acquired via department approved providers and those that have been issued, those that were acquired at the tax collector's office. Dealers are also required to keep accurate records of all dealer tags purchased by the dealership so that each tag and the person to whom it is assigned for use can be easily and readily identified.

Records inspections are normally conducted by a Compliance Examiner from the Bureau of Motor Vehicle Field Operations, Regional Offices, but there are occasions when an inspection is conducted by a Compliance Examiner from the Manufactured Housing Section, Division of Motorist Services, or by a uniformed or plainclothes law enforcement officer from the Florida Highway Patrol. These DHSMV representatives are equally authorized to conduct records inspections.

Dealers are required to cooperate and assist the Department by providing all information requested. Following a routine inspection, a licensee will be given an opportunity to correct any discrepancies found. A follow-up inspection, if needed, by the Compliance Examiner will ensure compliance.

A dealer who fails or refuses to cooperate by withholding records or failing to maintain records is subject to a fine or the suspension or revocation of their license. In addition, such failure or refusal constitutes a second-degree misdemeanor and subjects the dealer to arrest.

B. MERCHANDISING: OPERATING IN GOOD FAITH

1. IN GENERAL

By accepting a license issued by the Department of Highway Safety and Motor Vehicles, there is an implied agreement between the licensee and the state that the dealer will operate the business in good faith and that any dealings with the public and with governmental agencies will not be fraudulent, confusing, misleading, unethical, or unlawful.

2. ESTABLISHING AND MAINTAINING WORKING RELATIONSHIPS

It is necessary for dealers to develop and maintain complete cooperation with the Department, and with the county tax collectors and their branch offices. Each group performs certain functions with regard to the sale of vehicles and the processing of ownership and registration documents. In addition, dealers must conduct business between themselves so as not to impede the flow of titles, registrations, and supporting documents.

County Tax Collectors and their branch offices, commonly referred to as tag agencies, are legal agents for the Department of Highway Safety and Motor Vehicles. They provide the facilities for processing of titles and registrations at the local level. It is important, therefore, for a positive relationship to exist between dealers and local tax collector's offices. Although the Department does not take an active role in the management of the day-to-day operations of tax collectors' offices and tag agencies, it is the responsibility of the tax collectors to ensure that their offices adhere to the Department's policies and procedures regarding the processing of titles and registrations. This is supported by continuous communications between the Department and tax collectors and through an ongoing series of training programs. However, any problems a dealer encounters in processing work through a tax collector's office should be dealt with directly through the county tax collector or their designated agent.

As noted earlier, the Bureau of Motor Vehicle Field Operations has regional offices located throughout the state to provide services to the public, dealers, and tax collectors on matters of dealer licensing and the processing of titles and registration work. Employees in this bureau will

assist in resolving, or make appropriate recommendations for resolving any conflict that may arise regarding these matters. Bureau of Motor Vehicle Field Operations, Regional Office Compliance Examiners have the authority to investigate matters regarding dealer licensing and vehicle titling and registration issues. Included is the authority of Bureau of Motor Vehicle Field Operations, Regional Office Compliance Examiners and supervisors to enter private and public property to enforce applicable statutes.

Any dealer having a problem with a tax collector's office regarding a matter of Departmental policy or procedure that cannot be resolved with the local office, may contact the local Bureau of Motor Vehicle Field Operations, Regional Office. Conversely, tax collectors who are experiencing difficulties with licensed dealers, not complying with Departmental policies and procedures, have the authority to reject, before processing, any paperwork submitted by the dealer for title and registration transfers, and advise the applicable regional office of such difficulties.

3. USE OF PROPER DEALERSHIP NAME AND ADDRESS

The name and address of the licensee as it appears on the dealer license is the only authorized name and address the dealer is permitted to use in conjunction with the conduct of the business. Such name may be the fictitious name under which the business is licensed. The purpose of this requirement is to ensure that members of the consuming public fully know and understand the identity of the licensee with whom they are dealing. This requirement applies not only to sales but also to all forms of advertising.

4. DISCLOSURES

320.840, F.S, 501-976(10) F.S.

Statements regarding sales, financing, or advertising of vehicles shall not be false, deceptive, or misleading. Any written contract, statement, receipt, or other agreement between dealers or between a dealer and a consumer must be in compliance with applicable state and federal laws. It is expected that a dealer will comply with any written agreement that is made with another dealer or with a consumer. It is important to note that, as a general rule, disputes over

contractual matters arising between a dealer and a consumer would not ordinarily relieve a dealer of the obligation to transfer or apply for title and registration following the sale of a vehicle. The advertised price of a motor vehicle whether it is displayed on a windshield or included in a printed advertisement must include all fees or charges that the customer must pay, including freight or destination charge, dealer preparation charge, and charges for undercoating or rust proofing. State and local taxes, tags, registration fees and title fees need not be disclosed in the advertising.

The applicability of refunds, liquidated damages, the return of deposits and down payments on the sale of recreational vehicles and mobile homes shall be governed by applicable statutes or contract law. Copies of all written statements, agreements, receipts, or contracts regarding the purchase, sale, or exchange of any motor vehicle, mobile home or recreational vehicle must be given to the consumer. This is particularly applicable to any written instrument that the consumer signs.

Section 320.840, F.S., specifies that in the absence of an express provision in the sales contract, the retail seller of a mobile home may only retain deposit amounts as stipulated in s. 320.840, F.S.

Pursuant to section 501.976 (10) Florida Statutes, a dealer may not “Require or accept a deposit from a prospective customer prior to entering into a binding contract for the purchase and sale of a vehicle unless the customer is given a written receipt that states how long the dealer will hold the vehicle from other sale and the amount of the deposit, and clearly and conspicuously states whether and upon what conditions the deposit is refundable or nonrefundable.”

5. CONSIGNMENT SALES

15C-7.002(5)(c), F.A.C.

Florida law imposes a requirement on a dealer to have a duly assigned title or reasonable indicia of ownership in their possession from the time of acquiring a vehicle until the time of disposing of such vehicle. The common consignment sale practice of merely turning over possession of the vehicle while the consignor/seller holds title is unlawful in this state. Thus, in order for a dealer

to stay out of a potentially damaging situation whereby the dealer sells a vehicle that has been consigned, later to discover that the seller refuses to transfer title, the Department permits consignment sales only if the dealer has a secure power of attorney from the owner to the dealer, signed by the seller, which would enable the dealer to process the title after the sale, accompanied by a written consignment agreement that spells out the conditions and obligations of each of the parties in the consignment. The dealer will also need a power of attorney to apply for a duplicate title and assign the title on behalf of the owner. In the cases where there is a lien on a vehicle to be consigned, the dealer must also have in their possession a copy of the front and back of the title and a secure power of attorney. In a consignment arrangement, the Department holds the dealer responsible for transferring the title to the purchaser within the time frame specified by law. Failure of a dealer to exercise due caution in this regard can potentially jeopardize the status of the dealer's license. The dealer should complete an odometer statement at the time the vehicle is taken in for consignment sale.

For motor vehicle dealers, the consignment that is contemplated is from a non-dealer owner to a dealer and not between dealers. Only the titled owner can give another person or business a power of attorney to apply for a duplicate title or assign a title on their behalf. No dealer is permitted to sell a vehicle on consignment from another dealer.

6. RESALE OF PREVIOUSLY DELIVERED NEW VEHICLE

319.001(9), F.S.

Dealers finding themselves in a situation when the title of a **new motor vehicle** has not been transferred but possession of the vehicle is transferred (delivered) pursuant to a conditional sales contract or lease and the conditions are not satisfied and the vehicle is returned to the motor vehicle dealer, the motor vehicle **may be resold to a new customer by the motor vehicle dealer as a new vehicle** provided the selling motor vehicle dealer gives the following written notice to the purchaser: **"THIS VEHICLE WAS DELIVERED TO A PREVIOUS PURCHASER."** The purchaser shall sign an acknowledgment of this declaration and a copy must be kept in the selling dealer's files.

7. SALE OF DEMONSTRATOR VEHICLES

Any franchised motor vehicle dealer selling a new motor vehicle that is identified on the records of the dealership as being used by, being inspected, or driven by the dealer or their employees or prospective customers for the purpose of demonstrating the vehicle's characteristics, is a demonstrator. Before any dealer sells such a new motor vehicle, either to another dealer or to an ultimate purchaser, the dealer must disclose, in writing, to the purchaser that the vehicle is a demonstrator.

8. SALE OF REPOSSESSED VEHICLES

A dealer who sells a repossessed motor vehicle, mobile home, or recreational vehicle for a bank, finance company, or any other lien holder must reassign the title through the dealership and process the title transfer to the purchaser. Before a dealer offers a repossessed vehicle for sale, a repossessed title or certificate of repossession must be applied for by the lien holder (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82040, Application for Certificate of Title With/Without Registration).

If a dealer finances their own sales, and appears on the title as a lien holder, a repossessed title must be applied for in the name of the dealership before the vehicle is resold, unless the vehicle is voluntarily sold back to the dealership. In either case, the title must be reassigned to the dealer and transferred by the dealer to the next purchaser, when sold.

9. SALE OF REBUILT VEHICLES

319.14(1)(a)(b), F.S. 681.111 F.S.

"Rebuilt vehicle" means a motor vehicle or mobile home built from salvage or junk, as defined in s. [319.30\(1\)](#), Florida Statutes. Anyone, whether a licensed dealer or not, who offers a motor vehicle for sale or exchange which has been rebuilt, must disclose, in writing, prior to consummating the sale, that the vehicle has been previously titled or registered as a "Rebuilt." A rebuilt vehicle is one that has been built or repaired from salvage, or junk, or water damaged vehicles and has a title issued which is branded as "Rebuilt." Such disclosure is also required on

any advertisement offering such rebuilt vehicle for sale. Note that the same requirements apply to any motor vehicles previously used as police vehicles or taxicabs, manufacturers buy backs or recall, short-term lease, or a non-conforming vehicle.

Dealers who rebuild vehicles are required to comply with the rebuilt application and inspection process. Certain requirements are imposed and should be checked with the Compliance Examiner or Bureau of Motor Vehicle Field Operations, Regional Office. The procedure includes and is not limited to the following: photographs of the vehicle must be submitted in its wrecked condition, original signed receipts for all major component parts, listing the vehicle identification number of the vehicle the parts came from, proof of ownership, and a physical inspection of the vehicle and all replacement parts is required. The dealer who rebuilds or assembles the vehicle from parts must first apply for a Florida title branded rebuilt or assembled from parts (ASPT), in their name before the vehicle may be resold. The dealer must advise the customer in writing that the vehicle has been rebuilt or assembled from parts.

All dealers should thoroughly inspect vehicles before offering for sale. The vehicle should be inspected to determine if it has previously been rebuilt. The pillar post on the driver's door should be checked to determine if a rebuilt plate or decal has been affixed. The title should also be checked for rebuilt or other brands prior to sale. Dealers selling salvage rebuildable vehicles cannot issue temporary tags for such vehicles and are required to apply for a salvage rebuildable title in the customer's name. Once the title is in the customer's name, the customer becomes responsible for the rebuilding inspection process and proper registration, when applicable.

No person shall knowingly offer for sale, sell or exchange a rebuilt vehicle unless the Department has stamped in a conspicuous place on the title for the vehicle words stating that the vehicle has been rebuilt or assembled from parts, or is a kit car, glider kit, replica, or flood vehicle unless proper application for a certificate of title for a vehicle that has been rebuilt or assembled from parts, or is a kit car, glider kit, replica, or flood vehicle has been made with Department. The Department will then conduct a physical examination of the vehicle and all the major component parts which have been repaired and replaced. Thereafter, the Department shall affix a decal to the vehicle showing the vehicle to be rebuilt.

10. SALE OF LEASE VEHICLES

319.14(2), F.S.

A motor vehicle that is rented, leased, or otherwise used as a lease vehicle must be titled and registered as such prior to being used, and may only be operated on the streets and highways. Dealer license plates may not be used. Once a vehicle has ceased being used as a lease vehicle and the ownership has been transferred to an owner for private use, the new owner may request the Department to issue a title removing the "lease brand", which indicates the previous use of the leased vehicle. If the label has not been removed, anyone, including a dealer, who offers such a vehicle for sale, must disclose, in writing, prior to consummation of the sale, that the vehicle is titled and registered as a lease vehicle.

11. SALE OF PREVIOUSLY DAMAGED VEHICLES

Although there is no requirement for a seller to disclose that a vehicle has previously had a bent frame, or major rust on the undercarriage or body, it is expected that a dealer will not intentionally misrepresent the condition of a vehicle or sell a vehicle knowing such vehicle to be unsafe. Such actions may make a dealer civilly or criminally liable in any cause of action arising as a result of the sale of a vehicle with such damage or deterioration. Water damaged vehicles must be titled as – flood vehicles if no major components were replaced. However, if the vehicle was flood damaged and major components were replaced; the title must be branded as a flood vehicle and rebuilt. When the out of state proof of ownership has issued a title showing the brand as water damaged or flood damaged, the Florida title will be issued showing the brand and will be carried forward for the life of the vehicle.

12. SALE OF DAMAGED NEW VEHICLES

501.975, 501.976 (19) F.S.

A dealer is obligated to disclose to a prospective customer any damage to a new motor vehicle whenever the actual cost to the dealer exceeds three percent of the manufacturer's suggested retail price or \$650, whichever is less, excluding replacement items as defined in s. 501.976, F.S.

13. SALE OF VEHICLES WITH UN-ORDERED EQUIPMENT

A dealer may not require a purchaser to accept a vehicle with any equipment or accessories not ordered by the customer or purchaser.

14. REQUIRING SPECIFIC FINANCING

A dealer may not require a customer or purchaser to finance a motor vehicle with a specific institution or company.

15. PURCHASE OF INSURANCE

A dealer may not require a purchaser of a motor vehicle to contract with the dealer for physical damage insurance.

16. SALE OF DAMAGED MANUFACTURED HOMES

A mobile home dealer is responsible for verifying the condition of a manufactured home when it is delivered to the dealer by the manufacturer. If any damage occurs in transit, the dealer is responsible for notifying the manufacturer and assuring that the home is repaired before it is delivered to an ultimate purchaser.

17. SALE OF MANUFACTURED HOMES NOT IN COMPLIANCE WITH STANDARDS

320.823, 320.8245, F.S.

A mobile home dealer is prohibited by federal law from selling or offering for sale a manufactured home the dealer knows is not in conformance with the Federal Manufactured Home Construction and Safety Standards. Furthermore, a dealer is prohibited from selling or offering for sale any manufactured home which has been altered or changed in such a way as to create an imminent safety hazard or condition which causes the manufactured home to fail to conform to federal standards. Each single-family or duplex mobile home or manufactured home manufactured in this state or manufactured outside this state but sold or offered for sale in this

state shall meet the Manufactured Home Construction and Safety Standards. Federal law mandates all dealers to maintain complete records of any alterations made to a manufactured home. All mobile homes are constructed to the Federal Safety Standards and a Federal Housing and Urban Development (HUD) label is affixed to the rear of each mobile home. The HUD labels are silver and red in color and are affixed to each section of a mobile home. If the mobile home is a double wide it will have two HUD Labels.

A mobile home dealer is responsible for assuring that a manufactured home has a HUD label affixed to each section.

18. USED RECREATIONAL VEHICLE SAFETY STANDARDS

320.8232, F.S.

It is the responsibility of a dealer to ascertain that all used recreational vehicles manufactured after January 1, 1968, either meet or exceed the requirements and standards of the Used Recreational Vehicle Code, prior to offering any such units for sale to the public.

19. FALSE, MISLEADING OR DECEPTIVE ADVERTISING

Subsection 320.27(9)(b)3, Florida Statutes, provides that when a dealer misrepresents or makes false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which the motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles can cause the Department to deny, suspend or revoke the dealer's license. It is immaterial whether a dealer had knowledge of the misrepresentation or of the falsity of the sales promotion. Even if the dealer did not intend to deceive anyone through the use of the deceptive advertisement, it is no defense to a civil or criminal charge. Liability is both civil and criminal and can constitute a second-degree misdemeanor. Civil liability can result from the filing of an unfair and deceptive trade practices suit by the State Attorney or the Attorney General's office. In addition to fines that may be levied of up to \$5,000 per violation, the dealer may also be forced to rescind any sales contract stemming from the advertisement or to otherwise reimburse wronged consumers.

As per section 320.771(3)(k), Florida Statutes, recreational vehicle dealer applicants are also required to sign a statement in their application that they have not and will not enter into any agreement, written or oral, with any other person or business entity, which would constitute an unfair and deceptive trade practice in violation of Part II of Chapter 501, Florida Statutes.

Dealers also need to be aware that rules of the state require all fees or charges, which a customer must pay, including freight, destination charges, dealer preparation charges, undercoating, or rust-proofing, be included in any advertised price and may not be added on later.

C. COMPLETING THE SALES TRANSACTION

1. COPIES OF DOCUMENTS TO PURCHASER

320.27(9)(b)4, F.S.

A licensed dealer is responsible for ensuring that each customer is provided with copies of any sales contract, purchase order, odometer disclosure statement, finance agreement, or other documents pertinent to a sale which are properly completed and signed. Mobile home dealers are responsible for providing each customer with documents provided by the manufactured home manufacturer. These include the following:

- a. Installation instructions, including specifications and procedures for the placement and hook-up of a home at its permanent location;
- b. The homeowner's maintenance manual;
- c. Warranties and owner manuals for the appliances, fixtures or components;
- d. Operating instructions for the appliances; and
- e. Records of purchase.

2. COMPLYING WITH TERMS OF A WRITTEN CONTRACT OF MOBILE HOMES

320.8335, 15C-2.011, F.A.C.

Once a contract has been completed and signed, both parties are expected to honor all terms of the contract. A mobile home dealer is responsible for providing the purchaser of a mobile home with a written contract. The contract must specify a complete list of the installation services included in the purchase price. If the wheels and axles used to transport the home are to be retained by the dealer, a statement to that effect must be in the contract. If such a statement is absent, then it is assumed that the wheels and axles have been paid for and belong to the purchaser. Mobile home dealers must also disclose, in writing, to a purchaser when the length of the coupling mechanism is included in the overall length of the mobile home.

As per 15C-2.011 FAC, "Running Gear Assembly" means a mobile/manufactured home chassis subsystem consisting of suspension springs, drawbar, axles, bearings, wheels, hubs, tires, and brakes, with their related hardware.

In order to clarify whether the assembly is included in the sale, no dealer or manufacturer shall sell or deliver a mobile/manufactured home to a retail purchaser without disclosing whether the running gear assembly is included in the transaction. The disclosure must be in written form, such as the following:

The sale of this mobile/manufactured home, ___ (VIN Number), ___ (Year & Make), includes/excludes (strike one) the running gear assembly (suspension springs, axles, bearings, wheels, hubs, tires, brakes).

	Dealer/Manufacturer	Purchaser
	Dated	Dated

The absence of a written disclosure or the failure to strike the inapplicable word (include/exclude) will be interpreted as meaning the running gear assembly was to be included in the sale. No oral agreements, whether witnessed or not, will be acceptable.

A copy of the disclosure shall be maintained by the dealer or manufacturer as part of the sale records and will be subject to periodic inspection by the Department.

Failure to maintain a disclosure statement or to comply with the requirements of this rule will result in disciplinary action against the dealer or manufacturer pursuant to Chapter 320, F.S.

3. TAKING A VEHICLE IN TRADE

319.23, F.S.

When a consumer is trading a vehicle in exchange for the purchase of a new or more current model, motor vehicle, mobile home, or recreational vehicle, a dealer should check the following items:

a. PROOF OF OWNERSHIP

A dealer should check the title to the motor vehicle, mobile home, or recreational vehicle in the possession of the seller to ensure the title is in the seller's name. If the seller does not have the title in their possession, because the title is being held by a lien holder, the dealer should check the vehicle registration in the possession of the seller to verify that the motor vehicle, recreational vehicle or mobile home is registered in the seller's name. The dealer should also check with the lien holder to ensure that the lien holder does have possession of the title. If the information does not match, or it is incorrect, or incomplete, the dealer should be very skeptical about taking such a vehicle on trade. The dealer should verify that any liens on the title are satisfied. If the lien is not satisfied, it is recommended that the dealer contact the lien holder to verify the amount of payoff before listing the amount on the sales contract. Section 319,24(5)(a), F.S., requires that a motor vehicle dealer shall pay and satisfy an outstanding lien within ten working days of acquiring ownership of a motor vehicle with an outstanding purchase money lien.

The dealer should verify the odometer reading and verify the vehicle identification number on the motor vehicle, recreational vehicle or mobile home is identical to the ownership documents. The vehicle should be titled in the name of the person making the trade. The title should also be checked for rebuilt or any other title brands.

b. VIN VERIFICATIONS

319.23(3)(a)(1), 319.23(3)(a)(2), F.S.

Any time a used vehicle is to be titled in Florida for the first time, a form must be completed which verifies that the public vehicle identification number on the vehicle is identical to that on the paperwork accompanying the vehicle and by which a Florida title will be sought. Licensed Florida dealers, law enforcement officers, Florida notaries public, and Florida Bureau of Motor Vehicle Field Operations, Regional Office Compliance Examiners may verify the VIN and attest to its accuracy by completing the VIN verification form (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82042, Vehicle Identification Number and Odometer Verification).

A dealer should verify the vehicle identification number on the motor vehicle, mobile home, or recreational vehicle and compare it with the VIN appearing on the proof of ownership documents. This should be done by physically checking the vehicle's public VIN plate and comparing it with the number appearing on the customer's proof of ownership. A dealer should also check the pillar post to determine if a vehicle has been rebuilt or assembled from parts. A dealer should also check the pillar post to determine if a vehicle has a rebuilt or "FLA" Decal affixed.

As noted earlier, the licensing laws prohibit a dealer from engaging in false, misleading, or deceptive advertising. An advertisement should not have the tendency to mislead or deceive the consumers.

Pursuant to section 319.14 (6) Florida Statutes, “any person who removes a rebuilt decal from a rebuilt vehicle with the intent to conceal the rebuilt status of the vehicle commits a felony of the third degree, punishable as provided s. 775.082, s. 775.083, s. 775.084.”

VIN verification for a vehicle that is brought into Florida from another country can be conducted only by a Bureau of Motor Vehicle Field Operations, Regional Office Compliance Examiner.

c. POWER OF ATTORNEY

A dealer should have the consumer complete a power of attorney form, giving the dealer authority to sign for the consumer on the sale of a trade-in vehicle. Only a secure power of attorney may be used when odometer disclosure is required. This form will be necessary should the dealer lose the title and have to apply for a duplicate title or, in the case of a lien, allow for transfer of the title once the lien has been satisfied. In cases where vehicles are traded in and the title is lost by the owner or is being held by a lien holder, it will be necessary to have the owner complete a secure power of attorney at the time of delivery. The secure power of attorney is designed to allow the dealer to record the odometer reading and place it on the title assignment to comply with federal law (visit the Department's website at <http://www.flhsmv.gov/html/forms.html> to access form HSMV 82995, Motor Vehicle Power of Attorney/Odometer Disclosure).

d. ODOMETER DISCLOSURE STATEMENT

320.27(9)(b)4, F.S.

When accepting a trade-in on a motor vehicle, a dealer is obligated to obtain an odometer disclosure statement from the seller. This form must be completed and signed by both the customer as the seller and the dealer as the purchaser and must accurately reflect the current odometer reading (visit the Department's website at <http://www.flhsmv.gov/html/forms.html>, to access form HSMV 82042, Vehicle Identification Number and Odometer Verification, form HSMV 82995, Motor Vehicle Power of Attorney/Odometer Disclosure, or form HSMV 82993, Separate Odometer Disclosure

Statement and Acknowledgement). The dealer should physically check the odometer reading on the vehicle. If the seller's title is being held by a lien holder or lost, a secure power of attorney form (visit the Department's website at <http://www.flhsmv.gov/html/forms.html>. to access form HSMV 82995, Motor Vehicle Power of Attorney/Odometer Disclosure) should be used to capture the odometer disclosure statement.

The Department may deny, suspend or revoke any license issued to a motor vehicle dealer for failure to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase of the motor vehicle.

e. CURRENT REGISTRATION/ LICENSE PLATE TRANSFER

When a customer purchases a vehicle using a trade-in as part of the transaction, the license plate from the trade-in vehicle should be removed and transferred to the new vehicle. In order for a dealer to correctly complete the transfer, the dealer must obtain a current vehicle registration on the traded vehicle from the customer. Failure to comply with this process will result in the customer being assessed the new wheels on the road tax. (Visit the Department's website at <http://www.flhsmv.gov/html/forms.html> to access form HSMV 83033, Notification of Transfer of Registration License Plate).

If a customer is not purchasing a vehicle but is selling a vehicle outright to a dealer, the license plate is to be given back to the customer. Remember, in Florida, the license plate remains with the owner. It does not go with the vehicle. Florida law requires dealers to process license plate transfers electronically via their Electronic Temporary Registration (ETR) vendor.

The Electronic Temporary Registration (ETR) system provides dealerships with the ability to submit license plate transfer information to the department electronically at the time of sale and transfer of the metal license plate and to have a new registration printed confirming the transfer. Below is an explanation of how the electronic process will work:

If a customer purchases a vehicle from a dealer and has a metal license plate to transfer to their new vehicle, the dealer uses the ETR system to enter the individual's personal and vehicle information. This information is verified against the Department's motor vehicle database and if everything is in order, it allows the transfer of the registration to the new vehicle. The dealer may then move the customer's metal license plate to the customer's new vehicle. The customer will be able to leave the dealership displaying his permanent metal license plate on the rear of their vehicle.

An ETR dealer may issue a pre-printed temporary license plate <http://www3.flhsmv.gov/dmv/Proc/RS/RS-31.pdf>, only in case of an ETR system outage. The dealer must report the issuance to the department electronically within one business day (excluding weekends and holidays) of issuing the temporary license plate. Please review additional requirements for issuing a pre-printed temporary license plate as provided in procedure RS-31 Temporary License Plates at the following link at <http://www3.flhsmv.gov/dmv/Proc/RS/RS-31.pdf>.

If the ETR system does not allow the metal plate to be transferred, the dealer must issue a temporary print on demand license plate or visit the tax collector's office to transfer the metal plate.

Non-ETR or Non-EFS Dealers

A dealer that does not use the EFS or the ETR system must visit a tax collector's office to have the appropriate transaction performed by the Tax Collectors Office before allowing the customer to drive the vehicle off the lot. The appropriate transaction may be the issuance of a temporary license plate, the temporary transfer of a metal license plate, or the issuance of the permanent title and registration.

No Metal Plate to Transfer

If the customer does not have a metal license plate to transfer, the dealer must issue a temporary print on demand license plate or visit the tax collector's office to purchase the metal plate.

Memos and Dealer advisories from the Department on Electronic Transfer of Metal Plates can be accessed at <http://www.flhsmv.gov/dmv/DlrAdv/DAindex.html>. More information on ETR can be accessed at <http://www.flhsmv.gov/etr/etr.html>, and information on EFS can be accessed at <http://www.flhsmv.gov/html/DMV/EFS.html>.

f. NOTIFICATION TO DHSMV

When a licensed dealer acquires a motor vehicle or mobile home as trade-in, the dealer must mark title as “sold” and notify the Department of the trade-in within 30 days, by submitting a completed HSMV form 82040, Certificate of Title With/Without Registration.

4. TAKING A VESSEL IN TRADE

Licensed Motor Vehicle dealers who take a vessel as a trade-in cannot reassign the vessel title to the new buyer. The dealership is required to take title in the dealership’s name prior to selling the vessel. A motor vehicle dealership is only licensed to deal in motor vehicles. Therefore, they cannot sell miscellaneous items, such as vessels, prior to taking title into the dealership’s name. When the dealership is applying for the title in their name, they must indicate on the HSMV 82040, Application for Certificate of Title With/Without Registration, that they are taking the vehicle into their inventory for resale so that no sales tax would be collected. The registration should be transferred with a registration use of “non-use,” so the Florida number can be transferred and no base tax is charged.

If a vessel dealer is taking a vehicle in on trade; the vessel dealer would also need to take title in their name prior to selling the vehicle. The vessel dealer must indicate on the form HSMV 82040, Application for Certificate of Title With/Without Registration that the vehicle is in their inventory for resale, so sales tax would not be due. The vessel dealer cannot issue any temporary tags.

5. COLLECTING SALES TAX

DR 15

It is the responsibility of a dealer to collect the proper amount of sales tax due on any sales transaction. The sales tax collected is paid by the dealer to the Department of Revenue, not to the county tax collector's office. The rules regarding applicable sales tax in unique situations, such as the sale of a vehicle to a non-resident who will title and register the vehicle in another state or foreign country, should be obtained from the Department of Revenue.

The dealer must register with the Department of Revenue and obtain a sales tax number. By doing so the dealer acts as the agent of the state and is responsible for collecting sales tax on each taxable transaction and, paying use tax on items used by the business that were tax-exempt or removed from inventory and not resold. All taxes collected must be submitted to the Department of Revenue, and the dealer must maintain complete and accurate records of all sales and purchases.

Some counties levy a discretionary sales surtax on most transactions that are subject to sales tax and use tax. It is the dealer's responsibility to collect the surtax along with the state sales tax and use tax and remit both taxes to Department of Revenue. The surtax applies only to the first \$5,000 of the selling price of each motor vehicle.

A dealer who refuses to register with Department of Revenue prior to opening a business will have to pay a registration fee of \$100 to the DOR. This fee may be waived by Department of Revenue if they find that the oversight was not intentional.

Florida law allows qualified purchasers who live out-of-state a partial tax exemption on motor vehicles purchased in Florida. A non-resident only pays Florida sales tax at the sales tax rate imposed in the non-resident's own state. In no case will more than the Florida sales tax rate of 6% be collected.

Some states require their residents to pay sales tax in order to register the vehicles in that state.

Discretionary sales surtax does not apply on the vehicle, but does apply on any applicable service.

No sales tax will be due in Florida from an out-of-state buyer if the buyer's home state does not impose sales tax on motor vehicles.

As per the Department of Revenue, certain vehicles may not be subject to Florida sales and use tax. The sale of a motor vehicles or recreational vehicles through a motor vehicle auction licensed by the Department of Highway Safety and Motor Vehicles to other motor vehicle dealers also licensed by the Department of Highway Safety and Motor Vehicles are deemed to be sales for resale. Therefore, the selling dealer (motor vehicle auction) is not required to collect Florida sales tax on such sales. Furthermore, the motor vehicle auction is not required to obtain resale certificates for these transactions. Refer to Rule 12A-1.039(4), Florida Administrative Code (FAC).

6. CHARGING PROPER TITLE AND REGISTRATION FEES

320.08, F.S.

A dealer can only charge the purchaser the actual fees authorized by statute for title and registration transfers. These will be the fees charged by the county tax collector's office for transferring title and registrations. Overcharging of these fees without refunding the overcharge is unlawful and could result in disciplinary action against the dealer's license. The dealer is responsible for refunding the overcharged amount to the purchaser. Private tag agency fees cannot be included in the category of title and registration fees.

7. ISSUING TEMPORARY TAGS

320.131, F.S., 15C-1.003, 15C-1.004, F.A.C.

The Department requires that motor vehicle dealers issue all temporary tags via an electronic system. This allows the law enforcement to verify the validity of a temporary license plate through the Florida Real Time Vehicle Information System (FRVIS).

The license plate stock for electronic temporary registration is purchased from the ETR vendor.

Several providers have been certified to provide this service to the motor vehicle dealers. More information can be accessed on-line at <http://www.flhsmv.gov/etr/etr.html>. The dealers that do not desire to contract with an ETR vendor must have temporary tags issued at the Tax Collector's Office.

More information on temporary license plates is available at the Department's website at <http://www.flhsmv.gov/>, and under procedure RS31 that can be accessed at <http://www3.flhsmv.gov/Division of Motorist Services/Proc/RS/RSContents.html>.

Memos and Dealer advisories from the Department on Electronic Transfer of Metal Plates can be accessed at <http://www.flhsmv.gov/dmv/DlrAdv/DAindex.html>.

If a purchaser of a vehicle is not transferring a tag from a trade-in vehicle, the dealer may issue a thirty-day temporary tag for use on the vehicle via their ETR vendor. Before issuing the first temporary tag the dealer must have all necessary information, including proof of insurance, to be able to transfer the title and register the vehicle during the thirty-day period. For information on temporary tag issuance access the Dealer Advisories at the Department's website at <http://www.flhsmv.gov/dmv/DlrAdv/DAindex.html>.

Pursuant to section 320.131(l), Florida Statutes, "The Department is authorized and empowered to design, issue, and regulate the use of temporary tags to be designated "temporary tags" for use in the following cases:

- (a) Where a dealer license plate may not be lawfully used.
- (b) For a casual or private sale, including the sale of a marine boat trailer by a marine boat trailer dealer. A "casual or private sale" means any sale other than that by a licensed dealer.
- (c) For certified common carriers or driveaway companies who transport motor vehicles, mobile homes, or recreational vehicles from one place to another for persons other than themselves.

- (d) For banks, credit unions, and other financial institutions which are not required to be licensed under the provisions of s. [320.27](#), s. [320.77](#), or s. [320.771](#), but need temporary tags for the purpose of demonstrating repossessions for sale.
- (e) Where a motor vehicle is sold in this state to a resident of another state for registration therein and the motor vehicle is not required to be registered under the provisions of s. [320.38](#).
- (f) Where a motor vehicle is required to be weighed or emission tested prior to registration or have a vehicle identification number verified. A temporary tag issued for any of these purposes shall be valid for 10 days.
- (g) Where an out-of-state resident, subject to registration in this state, must secure ownership documentation from the home state.
- (h) For a rental car company which possesses a motor vehicle dealer license and which may use temporary tags on vehicles offered for lease by such company in accordance with the provisions of rules established by the Department. However, the original issuance date of a temporary tag shall be the date which determines the applicable license plate fee.
- (i) In the resolution of a consumer complaint where there is a need to issue more than two temporary tags, the department may do so.
- (j) While a personalized prestige or specialty license plate is being manufactured for use upon the motor vehicle. A temporary tag issued for this purpose shall be valid for 90 days.
- (k) In any case where a permanent license plate cannot legally be issued to an applicant and a temporary license plate is not specifically authorized under the provisions of this section, the Department shall have the discretion to issue or authorize agents or Florida licensed dealers to issue temporary license plates to applicants demonstrating a need for such temporary use.
- (l) For use by licensed dealers to transport motor vehicles and recreational vehicles from the dealer's licensed location to an off-premise sales location and return. Temporary tags used for such purposes shall be issued to the licensed dealer who owns the vehicles.

The Department is authorized to disallow the purchase of temporary tags by licensed dealers, common carriers, or financial institutions in those cases where abuse has occurred. Procedure on temporary license plates RS 31 can be accessed at <http://www3.flhsmv.gov/dmv/Proc/RS/RS-31.pdf>.

8. NON-USE AFFIDAVIT

If a purchaser will not be operating a motor vehicle or recreational vehicle on the streets and highways of the state, the purchaser may complete a non-use affidavit at the dealership. The dealer can transfer the title with this affidavit and will not have to have the vehicle registered. The Division strongly cautions dealers to avoid the possible legal implications by ensuring that a purchaser has insurance before being allowed to drive a vehicle off the dealership property. The dealer must ensure that vehicles sold with a non-use affidavit are removed from the lot other than by being driven.

9. GETTING PROPER INFORMATION FROM PURCHASER/LIENHOLDER

If a purchaser has arranged financing independent of the dealer, the dealer must obtain the correct name and address of the lien holder from the purchaser in order to properly record the lien.

10. SALE OF MANUFACTURED/MOBILE HOMES

Under the laws of Florida, Mobile Home Dealers are required to register with the Department information regarding the person(s) they have employed as salesperson(s). Form HSMV 84045, has been created to assist mobile home dealers and mobile home brokers in registering their existing salesperson(s), adding new salesperson(s), and deleting salesperson(s). Mobile home salespersons must also use this form to update their **change of residential address** information. Please note, that a post office box is not acceptable. Mobile home dealers and mobile home brokers are not required to submit proof of electronic fingerprint for the initial registration, additions or deletions of salesperson(s) with the Bureau of Motor Vehicle Field Operations, Regional Office.

Every mobile home dealer must register with the Department, within 30 days after the date of hire, the name, local residence address, and home telephone number of each person newly employed by the licensee as a mobile home salesperson. A licensee may not provide a post office box in lieu of a physical residential address. Form HSMV 84045, Registration of Mobile Home Dealer's Salesperson(s) must be used by a mobile home dealer to add new hires with the Bureau of Motor Vehicle Field Operations, Regional Office.

Every mobile home dealer must notify the Department of the termination or separation from employment of each mobile home salesperson employed by the dealer on a quarterly basis **(March 31, June 30, September 30, and December 31)**. Form HSMV 84045, Registration of Mobile Home Dealer's Salesperson(s) must be used by a mobile home dealer to update salesperson(s) status information with the Bureau of Motor Vehicle Field Operations, Regional Office.

Each time a mobile home salesperson employed by a licensee changes his residence address, the salesperson must notify the Bureau of Motor Vehicle Field Operations, Regional Office within 20 days after the change using form HSMV 84045, Registration of Mobile Home Dealer's Salesperson(s).

As of July 13, 1994, Federal requirements were enacted which created specific wind zone requirements for the construction of mobile homes. Mobile homes, which are to be sold and set up in a particular wind zone, must be constructed to meet Federal requirements for that wind zone. A mobile home dealer may only sell mobile homes built to the requirements for that area. The mobile home dealer is responsible to check the DATA PLATE in the mobile home to ensure that it is built for the proper wind zone where it is sold and set up. Mobile home dealers may contact their local mobile home Compliance Examiner or mobile home regional office for information.

FEDERAL LAW SECTION 3288.5, RETAILER NOTIFICATION OF SALE

At the time of signing a contract for sale or lease for a manufactured home, the retailer must provide the purchaser with a retailer notice. This notice may be in a separate document from the sales contract or may be incorporated clearly in a separate section on consumer dispute resolution information at the top of the sales contract. The notice must include the following language:

“The U.S. Department of Housing and Urban Development (HUD) Manufactured Home Dispute Resolution Program is available to resolve disputes among manufacturers, retailers, or installers concerning defects in manufactured homes. Many states also have a consumer assistance or dispute resolution program. For additional information about these programs, see sections titled, “Dispute Resolution Process” in the Consumer Manual required to be provided to the purchaser. These programs are not warranty programs and do not replace the manufacturers or any persons, warranty program.”

11. MANUFACTURED HOME SET-UP

320.8249, F.S.

A mobile home dealer is responsible for assuring the proper set-up of a mobile/manufactured home, unless it is stated in the contract that the purchaser will arrange to have the home set-up. If a dealer transports a manufactured home to the permanent site and is responsible for the set-up, the dealer is responsible for any and all damages that may occur in transit and are caused by the dealer’s personnel during the set-up process. If a dealer contracts with a professional installation crew to perform the set-up operation, the dealer is still responsible to the purchaser for assuring that proper set-up is performed.

The mobile home dealer is responsible to ensure that all necessary permits are obtained prior to delivery and set up. The contractor is required by s. 320.8249, F.S., to be licensed as a mobile home installer. Any person who engages in mobile home installation/set up is required to be licensed as an installer. Installer licenses are obtained through the Manufactured Housing Section, Division of Motorist Services, in Tallahassee at 850-617-3004.

Completion of an eight-hour training seminar is required. The training seminar is provided by the Bureau of Mobile Home and Recreational Vehicle Construction. After completion of the seminar, information is provided for the applicant to take an examination administered by a third party testing agency.

A licensed mobile home dealer is not required to obtain a separate mobile home installer's license provided that a full time bonafide employee has successfully attended an eight-hour training course. Mobile home dealers who wish to be approved for the set up of mobile homes sold from their inventory should also contact the Installer Licensing Section in Tallahassee.

Mobile home dealers, who become authorized to set up their own mobile homes, must also purchase installer decals from the Manufactured Housing Section, Division of Motorist Services. The decals are \$10 each, and must be purchased in lots of five. The installer decal must be affixed to the mobile home prior to set up. The decal shall be affixed next to the HUD Label. A contracted crew may also be required to obtain a license and post a bond by local building and zoning departments.

12. HUD LABELS

A mobile home dealer is responsible for assuring that a manufactured home has a HUD label affixed to each section. If a mobile home is a double wide it will have two HUD labels. The HUD labels are silver and red in color and are affixed to each section of the mobile home. All mobile homes are constructed to Federal Safety Standards and a Federal Housing and Urban Development (HUD) label is affixed to the rear of each mobile home.

13. INFORMATION CARD

A mobile home dealer is responsible for completing an information card on each manufactured home sold and for sending the card to the manufacturer. The card is supplied by the manufacturer, but the information on this card is provided by the purchaser of the mobile home.

14. VENTILATION IMPROVEMENT INFORMATION SHEET

A dealer is responsible for delivering a ventilation improvement information sheet to a mobile home purchaser prior to consummation of a sale. The information sheet must include a description of the available ventilation option(s) and, for mechanical systems, the rated capacity in air changes per hour or cubic feet per minute. This form is provided by the manufacturer.

15. INITIAL REGISTRATION FEE

320.072(1), F.S.

Florida law provides for an additional \$225 initial registration fee to be imposed upon the initial application for registration of certain motor vehicles. This fee is often confused with and referred to as an impact fee; however, the fee is more correctly known as the new wheels on the road fee. Dealers are required to collect this fee when an appropriate registration is not being transferred to a newly purchased vehicle and a new license plate is being purchased. Every attempt should be made by dealers to determine whether a customer has an appropriate registration to transfer to a newly purchased vehicle at the time of sale. More specific information on this requirement can be obtained from a local tax collector's office.

16. TAMPERING WITH MOTOR VEHICLE AIR POLLUTION CONTROL EQUIPMENT

Section 316.2935(1), F.S., provides that: "It is unlawful for any person or motor vehicle dealer as defined in s. 320.27, F.S., to knowingly and willfully sell, transfer title to, or operate a motor vehicle in Florida that has been tampered with." Tampering refers to dismantling, removal, or rendering ineffective of any air pollution control device or system, which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle. At the time of sale or transfer of title of a motor vehicle, the seller shall certify in writing, to the purchaser or person to whom title is being transferred, that the motor

vehicle has not been tampered. (To view s. 316.2935, F.S., or any other Florida Statute, visit the Florida Senate's website at <http://www.flsenate.gov/statutes>.)

For a first violation of s. 316.2935, F.S., violators shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S., **except that a motor vehicle dealer shall be guilty of a misdemeanor of the first degree punishable as provided in s. 775.082 or s. 775.083, F.S.**

Enforcement of the anti-tampering statute is assigned to the Department of Environmental Protection (DEP) and any law enforcement officer in the state. The DEP promulgated Rule Chapter 62-243, F.A.C., to provide further guidance on this matter (visit the Department of State's website at <http://election.dos.state.fl.us> and click on Administrative Code/Weekly link to view a copy of Rule Chapter 62-243, F.A.C.). Included in this guidance is a listing of pollution control devices, which dealers must check pursuant to completing the certification statement that the vehicle has not been tampered with. In this regard, the dealer is required only to verify that the devices are in place and not obviously damaged. It is important for dealers to be aware further that Rule 62-243.100, F.A.C., provides that no person or motor vehicle dealer as defined in s. 320.20, F.S., shall **offer or display for retail sale or lease**, any tampered motor vehicle. Thus, even offering a tampered vehicle for sale or lease is illegal.

Pursuant to enforcing the anti-tampering statute, authorized DEP employees may check dealer lots to ensure that the vehicles displayed for sale have not been tampered with. When they find such violations they will issue a notice of violation to the dealer, which may be used as evidence pursuant to criminal prosecution pursuant to the anti-tampering statute.

Rule 62-243, F.A.C., includes a suggested form to use for certifying that the vehicle has not been tampered with. In Hillsborough County, the Environmental Protection Commission has a different form (visit Hillsborough County's Environmental Protection Commission's website at <http://epchc.org/air.htm> to access the Acceptable Certification Statement form) for this purpose, which must be used by dealers in that county.

It is important that every dealer read and understand the provisions of s. 316.2935, F.S., and Rule Chapter 62-243, F.A.C., and provide a written certification, stating the vehicle has not been tampered with, to each buyer of a used motor vehicle.

D. PROCESSING OF TITLE AND LIEN WORK

319.23(6), F.S.

1. DEALER TO APPLY FOR TITLE

Under the laws of Florida the obligation is on every dealer who sells a motor vehicle, mobile home, or recreational vehicle to apply for transfer of title (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82040, Application for Title With/Without Registration) or for a duplicate title on behalf of the purchaser. Under no circumstances, if a vehicle is to be titled and/or registered in Florida, is a dealer permitted to give the paperwork to the customer and advise the customer to apply for transfer of title. The obligation is the dealer's and the Division of Motorist Services holds the dealer accountable for that responsibility.

A dealer processing titles and registrations sold from licensed supplemental locations must use the correct suffix (example: VF-0000000-1 or VF-0000000-2) of the location on all title and registration work processed through a tax collector's office or tag agency. A mobile home dealer is responsible to transfer all titles for each mobile home. If the mobile home is a double wide or triple wide, a title is issued for each half or floor. In each case of transfer of a motor vehicle or mobile home, the application for the certificate of title, or corrected certificate, or assignment or reassignment, shall be filed within 30 days from the delivery of the motor vehicle or mobile home to the purchaser. The dealer applicant shall be required by law to pay a penalty of \$10, in addition to all other fees and penalties required by law, for failing to file such application within the specified time.

2. TITLE IN POSSESSION

320.27(7), F.S.

Anytime a dealer offers a motor vehicle, mobile home, or recreational vehicle for sale, the dealer is required to have a title, proper indicia of ownership, or a Manufacturer's Certificate of Origin (MCO) in their possession. The law requires the title or MCO be in the possession of a dealer from the time of acquiring the motor vehicle, recreational vehicle or mobile home until the time of disposal. - It is unlawful for a dealer to possess a motor vehicle, recreational vehicle or mobile home with an open title (one that has not been duly assigned or transferred by the seller (consignor) to the dealer (consignee)).

(Division of Motorist Services recognizes one exception: If there exists a written consignment agreement between the seller and the dealer, accompanied by a power of attorney giving the dealer authority to sell the motor vehicle, and transfer title, such an agreement will be recognized even though the seller may not wish to depart with possession of the title until the dealer presents the agreed upon money for the sale.)

Reasonable indicia of ownership according to Rule 15C-7.002, F.A.C., shall include:

- a. A duly assigned certificate of title;
- b. In the case of a new motor vehicle, a manufacturer's certificate of origin issued to or reassigned to the motor vehicle dealer;
- c. A consignment contract between the owner and the dealer with a secure power of attorney from the owner to the dealer authorizing the dealer to apply for duplicate certificate of title and assign the title on behalf of the owner;
- d. A court order awarding title to the vehicle to the dealer;
- e. A salvage certificate of title;

- f. Photocopies of a duly assigned certificate of title being held by a financial institution as collateral for a business loan of money to the dealer, i.e., floor plan;
- g. A copy of a canceled check or other documentation evidencing that an outstanding lien on a vehicle taken in trade by a licensed dealer has been satisfied and that the certificate of title will be, but has not yet been, received by the dealer;
- h. A vehicle purchase order or installment contract for a specific vehicle identifying that vehicle as a trade-in on a replacement vehicle; and
- i. A duly executed odometer disclosure statement as required by Title IV of the Motor Vehicle Information and Cost Savings Act of 1972 (Public Law No. 92-513) as amended by Public Law No. 94-364 and Public Law No. 100-561 and Part 580, Title 49, Code of Federal Regulations, bearing the signatures of the titled owner(s) of a trade-in vehicle. Section 319.225(40) and 320.27(9)(b)(4), Florida Statutes provide more information on the requirement of odometer disclosure statement.

3. TRANSFER WITHIN 30 DAYS

319.23(6), F.S.

Florida statutes require that a dealer actually apply for the transfer of title and registration on behalf of a purchaser within thirty (30) days of the date of purchase or date of delivery. If the title is not available, the dealer must apply for a duplicate title. Once a duplicate title is issued, the dealer must then apply for transfer of the duplicate title to the purchaser immediately. If the time frames are not met, there is a statutory late fee assessed, and the dealer's license may be subject to administrative sanctions.

4. LATE PENALTY

319.23(6), F.S.

Any person, including a dealer, who fails to transfer title within the thirty-day requirement, as specified by law, must pay a late penalty of \$20 at the time of applying for transfer.

Governmental agencies are not exempt from this requirement. When a dealer fails to act within the required time period, the late penalty cannot be passed on to an ultimate purchaser. The fee schedule can be accessed at <http://www.flhsmv.gov/DHSMVfees.htm>.

5. CUSTOMERS WHO WILL TITLE AND REGISTER OUT OF STATE

The only exception to the requirement that a dealer apply for title on behalf of an ultimate a purchaser is when the purchaser intends to title and register the vehicle in another state. In that case, the dealer must give the purchaser all the necessary paperwork to apply for title and registration out of state. The dealer may issue one thirty-day temporary tag, which will allow the purchaser to drive the vehicle to the state in which it will be registered and titled. The purchaser must provide proof of insurance to receive a temporary tag. The fact that the vehicle is to be titled in another state, however, does not exempt the purchaser from paying or the dealer from collecting the applicable sales tax due on the sale of the vehicle. The Department of Revenue can provide further information and forms needed by customers to ensure credit for taxes paid (visit the Department of Revenue's website at <http://sun6.dms.state.fl.us/dor/>).

6. PROOF OF INSURANCE REGISTRATION REQUIREMENT

320.02(5)(a), F.S. 319.23(7)(b) F.S.

In order for a dealer to successfully process an application for a transfer of title into the name of a purchaser, the dealer must also apply for registration of the vehicle or have the purchaser sign an affidavit to the effect that the vehicle will not be used on the roads, streets, and highways in Florida. The purchaser must provide the dealer with proof of insurance. This is generally in the form of a copy of the insurance identification card. The tax collector's office will not process an application into an ultimate purchaser's name unless accompanied by proof of insurance. Failure to obtain proof of insurance may prevent the dealer from processing the application for transfer of title within the thirty day time period which can, and often does, result in administrative action being initiated against the dealer's license. Proof of insurance must be verified by the dealer before the first temporary tag is issued.

7. ACCOUNTS RECEIVABLE LOT (ACR LOT)

Some dealers may choose to provide financing to customers who purchase vehicles from them. This type of dealership is commonly referred to as an ACR lot, or a "buy here, pay here" lot. In order for the dealer to meet the statutory requirements, the title to a vehicle sold must be transferred to the purchaser with a lien recorded in favor of the dealer and if the purchaser defaults on the contract and it becomes necessary, the vehicle can be repossessed by the dealer. A dealer is not allowed to delay the title transfer until the vehicle is paid for in full. The thirty (30) day title transfer requirement applies regardless of any outstanding balance owed on the vehicle. A dealer doing his own financing is required to be licensed by the Florida Department of Financial Services and failure to do so may carry severe penalties.

8. LIEN RECORDING

319.28, 319.24(5)(a), F.S.

The proper way to ensure that a purchaser pays any outstanding balance owed a dealer is by recording a lien on the vehicle when applying for the title in the purchaser's name (visit <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82139, Notice to First Lien holder of Subsequent Lien). The lien must be satisfied before the purchaser owns the vehicle free and clear. In Florida, the first lien holder retains possession of a title until the lien is satisfied and only then will a clear title be issued in the name of the owner (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82260, Lien Satisfaction). The process of recording a lien guarantees the protection of laws to each party involved in the transaction. If a lien is reassigned, (one lien holder replaces the existing lien due to lien interest being reassigned), an application for assignment of lien must be completed (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82139, Notice to First Lien holder of Subsequent Lien) to ensure the new lien holder information is properly recorded.

9. WHOLESALE TRANSACTIONS

a. DRAFTS

Sometimes, the ownership of a motor vehicle, recreational vehicle, or mobile home will pass from one licensed dealer to another without being sold to a private individual. Such transactions between licensed dealers are called wholesale transactions. In Florida, it is a common practice for dealers (motor vehicle dealers more frequently than mobile home or recreational vehicle dealers) to buy and sell vehicles from each other on a wholesale basis using drafts, payable at some time in the future by a financial institution. Usually it takes several days or longer for a draft to clear a bank or financial institution from which payment is to be made. Technically the draft system, a common business practice in Florida, does not comply with the statutory requirement that a duly assigned title must be in the possession of the owner of a vehicle from the time of acquiring the vehicle until the time of disposing of that vehicle. This means that, even in wholesale transactions, a completed title must accompany the transaction. Although the Division of Motorist Services recognizes the existence of drafts, the Division of Motorist Services holds the dealers involved in these transactions responsible for obtaining titles or proper indicia of ownership before offering these vehicles for sale, wholesale or retail, as required by law.

b. TITLE REASSIGNMENTS

In wholesale transactions, the process of transferring ownership from one dealer to another, without requiring the actual issuance of a new title in each dealer's name, is by a process called reassignment of title. The reassignment is a form which, when completed, represents the transfer of ownership of the vehicle. Reassignments are found on the reverse side of the manufacturers' certificates of origin (M.C.O.), certificates of origin, certificates of title, and on separate forms. There are two types of separate forms in use. One may be used to reassign vehicles that are exempt from federal odometer disclosure requirements (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82101, Application for Duplicate or Lost in Transit/Reassignment for a Motor Vehicle, Mobile Home, or Vessel Title Certificate. The other type of form is a secure reassignment form designed to be

used with non-conforming titles in order to document odometer readings in accordance with federal law (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82994, Motor Vehicle Dealer Title Reassignment Supplement).

c. AUCTIONS: SPECIAL PROVISION

Dealers who are licensed as motor vehicle auctions, holding a license prefixed with the letters VA are given special consideration by the legislature recognizing that auctions generally provide a forum for sellers to dispose of vehicles through the bid process. Since auctions are not considered buyers or transferees or sellers or transferors in this auction process, Florida law exempts auctions from the need to complete reassignments unless an auction owns the vehicle. In lieu of completing the reassignment, the auction simply includes the auction name, address, and dealer license number in the appropriate spaces provided on the title certificates and reassignments. This information indicates that the vehicle has gone through the auction and that the auction is in the sequence between the seller and the next buyer. Any independent motor vehicle dealer (VI) wishing to use the bid process as a forum to sell by acting as an auction, without the benefit of an auction license (VA), must complete dealer reassignment forms on all transactions. Auctions (VA) may sell recreational vehicles taken in as a trade-in by a motor vehicle dealer only to a licensed recreational vehicle dealer.

10. VIN VERIFICATIONS

319.23(3)(a), F.S.

Any time a used vehicle is to be titled in Florida for the first time, a form must be completed which verifies that the public vehicle identification number on the vehicle is identical to that on the paperwork accompanying the vehicle and by which a Florida title will be sought. Licensed Florida dealers, law enforcement officers, Florida notaries public, Florida Tax Collector employees, and Bureau of Motor Vehicle Field Operations, Regional Office, Compliance Examiners may verify the VIN and complete the VIN verification form (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82042, Vehicle Identification Number and Odometer Verification). Only a Bureau of Motor Vehicle Field

Operations, Regional Office Compliance Examiner or supervisor can verify the VIN of a vehicle entering Florida from another country.

11. ODOMETER READINGS

319.225(4), 320.27(9)(b)(4) F.S.

Beginning in 1983 all certificates of titles issued in Florida must have the correct odometer reading, at the time of transfer, and the odometer reading must be recorded on the front of the title. This is called the odometer declaration statement. The law further requires that upon a transfer of ownership of any vehicle, the seller must enter the current odometer reading and the date on which it is read in the appropriate space on the Certificate of Title. Dealers are also required to enter odometer readings each and every time a vehicle is purchased or sold. Space is provided on dealer reassignment forms to enter this information. In addition to the state requirement, since April 29, 1990, federal regulations require licensed motor vehicle dealers to obtain from the seller, on the purchase of any motor vehicle, a federal form called an Odometer Disclosure Statement which must be accurately completed and which must indicate the reading on the vehicle at the time of acquisition (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 82993, Separate Odometer Disclosure Statement and Acknowledgement). In addition, every licensed dealer must complete an Odometer Disclosure Statement at the time of selling or disposing of a vehicle. Federal regulations require dealers to keep both the acquisition Odometer Disclosure Statement and the sale Odometer Disclosure Statement in their file for a minimum of five years. Florida's conforming title certificate, secure power of attorney, and secure dealer reassignments (visit the Department's website at www.flhsmv.gov to access form HSMV 82995, Motor Vehicle Power of Attorney/Odometer Disclosure and form HSMV 82994, Motor Vehicle Dealer Title Reassignment Supplement) comply with federal regulations and contain the necessary odometer disclosure information.

12. FAST TITLE SERVICE

Assuming all paperwork is complete and accurate, the time it takes to have a title issued and returned to an owner or lien holder by mail is relatively short. However, for those who may

need expedited service, most county Tax Collectors can provide a fast title service. Fast title service guarantees, for an additional payment over and above the normal fees, that if all paperwork is properly in order, a title will be issued immediately. The fee schedule can be accessed at the Department's website at <http://www.flhsmv.gov/DHSMVfees.htm>.

13. SERVICES OF COUNTY TAX COLLECTORS

With very few exceptions, all title and registration work is to be processed by dealers of motor vehicles, mobile homes, or recreational vehicles in Florida. It will be processed through a county tax collector's office or one of the tax collector's branch agencies commonly referred to as tag agencies. The tax collectors serve as agents for the Department of Highway Safety and Motor Vehicles for accepting and performing initial processing work on title and registration applications. Most titles are issued at a Tax Collector's Office. The tax collector's office does issue license plates and registrations. All dealers must process all paperwork through the tax collector. The Division will not accept applications for titles or registrations directly through the mail or in person. All such inquiries are referred to the tax collector's office. The system that has been designed not only expedites the processing of all applications fairly and equally, but also ensures that the work processed is complete and accurate. The tax collectors' employees are well qualified and trained in the legal and procedural requirements for completing necessary paperwork to process title and registration applications. These highly skilled employees can provide answers to most questions that are asked and, when answers are not readily available, they know whom to contact to get correct answers as quickly as possible.

14. **Electronic Titles:** The Division of Motorist Services has implemented an [electronic lien and titling system](#) (e-title) designed to assist lienholders as well as vehicle owners. An e-title is a motor vehicle or mobile home, or vessel title held in electronic form by the Department. An e-title proves ownership of a motor vehicle, mobile home, or vessel the same way a paper title does. Maintaining the title to a vehicle electronically eliminates the risk of losing it and having to pay title fees to obtain a duplicate. It is also an effective fraud deterrent because potential thieves will not have access to the title. If the lien on the vehicle has been satisfied and the title is electronically maintained, the Department is encouraging owners to maintain their titles

electronically. Customers may still request that a paper title be printed at any time. Titles are mailed to the address reflected on the owner's motor vehicle record and are generally mailed within two (2) days of receipt of the request. To request a paper title, the owner can visit the Division of Motorist Services website or if a paper title is wanted immediately, many [tax collector offices](#) offer same day title printing for \$10.00. An owner does not need to request a paper title prior to trading in their vehicle with a Florida dealership.

A dealer can verify whether a title is an e-title by accessing www.flhsmv.gov and clicking on "Motor Vehicle Check." A dealer may sell such a vehicle after verifying the title is an e-title without having a title printed. Once verification is made, ownership can be transferred to the dealer using a secure reassignment form (HSMV 82994). The dealer can then continue to use the reassignment form to reassign to other dealers or to finally sell the vehicle at retail. There may be occasions where an auction will require a dealer to furnish a paper title for a vehicle the dealer is trying to sell through the auction and the dealer will have to obtain it.

15. DIVISION OF MOTORIST SERVICES PROCEDURES MANUAL

The Division of Motorist Services utilizes comprehensive procedures, which provides in detail, the procedure and requirements for the various title and registration processes. The procedures are available on the Department of Highway Safety and Motor Vehicles' website free of charge. Visit http://www3.flhsmv.gov/DIVISION_OF_MOTORIST_SERVICES/Proc/. Newly licensed dealers are encouraged to consult the on-line manual when they have questions regarding registration or titling issues.

E. PROCESSING REGISTRATIONS

1. APPLYING FOR REGISTRATION

As a general rule, a dealer who sells motor vehicles, mobile homes, or recreational vehicles will make application for transfer of the registration into the purchaser's name at the same time as application is made for transfer of the title. Both processes must be accomplished within thirty (30) days of the date of sale/delivery of the unit. The only situation in which a title would be applied for by a dealer without simultaneously applying for registration, would involve a case

where a motor vehicle or recreational vehicle is not to be driven or is not capable of being driven from the dealer's lot, in which case a non-use affidavit would accompany the title application. This will be discussed in more detail below.

A dealer processing titles and registrations sold from licensed supplemental locations must use the correct suffix (example: VF-000000-1 or VF-0000000-2) of the location on all title and registration work processed through a tax collector's office or tag agency.

a. PROOF OF INSURANCE

Any time a dealer sells a motor vehicle or recreational vehicle, the law requires the dealer to apply for title and registration on behalf of the purchaser. As part of this responsibility and as a condition of titling and registering a vehicle, the applicant must produce proof that the owner of the vehicle carries at least the minimum insurance required by law, which in Florida is personal injury protection (PIP) and \$10,000 of property damage liability insurance. No application for transfer of title or transfer of registration will be accepted in Florida by any tax collector's office or by the Division of Motorist Services unless it is accompanied by either proof of insurance or a non-use affidavit. A dealer may not be relieved of the responsibility of transferring title and registration in a timely manner, as the statute requires, simply because the dealer failed to obtain, or the purchaser failed to provide, the necessary proof of insurance. The Division places the responsibility on the dealer to obtain this information.

b. NON-USE AFFIDAVIT

If a vehicle purchased from a dealer is not to be driven but is, for example, to be transported on another vehicle or is purchased only for parts and will not be operated on the streets and highways of Florida, it need not be registered, provided the purchaser signs a non-use affidavit. In such a case, a title will be applied for without registration. Dealers must understand that the affidavits are not completed by the dealer, but by the purchaser and the non-use affidavit is not to be used in lieu of obtaining proof of insurance from the purchaser. Thus, a dealer may not accept a non-use affidavit completed by a purchaser and

then allow the purchaser to drive the vehicle off the dealer's lot. In such a case, perjury has been committed and the dealer is a party to that violation. Similarly, a dealer may not accept a non-use affidavit from a purchaser and then issue a temporary tag to a vehicle, which will be driven from the dealer's location. Again, there is an obvious case of perjury to which the dealer is a party. A separate non-use affidavit must be completed and signed by the purchaser. It is recommended that the dealer maintain proof of how the vehicle was removed from their dealership lot.

c. LICENSE PLATE RATES

The rates charged for license plates are based on a twelve (12 or 24) month registration, which, for motor vehicles begins on the first day of the owner's (purchaser's) birth month, with the exception of company owned vehicles that use the month of June; trucks weighing over 5,000 pounds, truck-tractors, semi-trailers and buses use a December birth month; and, mobile homes use a January birth month. However, license plate tax rates may be prorated in certain instances and are calculated from the month the vehicle is purchased or subject to registration. A license plate rate chart is available from the Division of Motorist Services and tax collectors' offices, which permit a dealer to calculate the fee due on any particular vehicle (visit the Department's website at <http://www.hsmv.state.fl.us/html/forms.html> to access form HSMV 83140, License Plate Rate). Link <http://www.flhsmv.gov/DHSMVfees.htm>. The fee schedule can also be accessed at <http://www3.flhsmv.gov/dmv/Proc/Fees/FeeContents.html>.

d. CHARGING EXCESSIVE FEES

Certain fees are established for license plate rates depending on the birth month of the purchaser, the type of vehicle purchased, and the month in which the vehicle is purchased. Title fees are established by law or rule of the Department. In any event, the title and registration fees applicable to a particular type of vehicle sold by a dealer are easily determined. A dealer is not permitted to charge title and registration fees in excess of those allowed by law. Any excess charges imposed by a dealer are in violation of the statute and

may subject the dealer's license to administrative sanctions imposed by the Division. The dealer must refund the excess money overcharged to the purchaser.

2. TRANSFER OF REGISTRATION

License plates issued to private passenger cars and lightweight trucks weighing 5,000 pounds or less are transferable and interchangeable without any additional tax, transfer fee, or refund, providing proper application is made and applicable service fees accompany the application. At any time that a transaction occurs in which a tag may be transferred, the Division holds the dealer responsible for ensuring that a transfer is made rather than applying for and issuing a new tag for the newly purchased vehicle. It is often more convenient for a dealer to simply process the application for title and registration as a new vehicle without transfer, but when this occurs, the inventory of metal tags available statewide is seriously depleted. In addition, if there is a considerable period of valid time left on the registration, the act of issuing a new plate, when a transfer would otherwise be proper, causes the customer to lose money because pro rata refunds are no longer issued. Additionally, failure to transfer a tag when appropriate, subjects the dealer and customer to the "new wheels on the road", initial registration fee.

Although the law allows dealers thirty (30) days to apply for title and registration for their customers, another section of the statute requires that the owner of the motor vehicle have a registration certificate or a replacement motor vehicle registration certificate to be exhibited upon demand of any law enforcement officer. The dealer is required to process plate transfer via their ETR vendor. If the ETR system does not allow the metal plate to be transferred, the dealer must issue a temporary print on demand temporary tag or visit a Tax Collector office to transfer the plate. The requirement is that when the vehicle leaves the dealer's lot, the license plate displayed on it is matched to the vehicle it is on. A dealer may not apply for a "title only" after allowing a vehicle to be driven from their lot.

Normally, proof of insurance is not required when transferring a current license plate from a vehicle being disposed of to a newly acquired vehicle. The law provides that such transfer does not constitute a new registration and therefore, the necessity of requiring proof of insurance is not applicable. There is one exception. If such transfer is made during the last three months of

a registration tax period and the owner is paying for the following new twelve-twenty four month registration, then proof of insurance is required.

To process a transfer of a license plate, a dealer should acquire from the purchaser the registration on the trade-in vehicle. This will expedite the processing of the transfer registration.

F. PRIVILEGES

320.13, F.S.

1. PURCHASE AND USE OF DEALER PLATES

a. WHO MAY USE

Licensed motor vehicle and recreational vehicle dealers are entitled to obtain such dealer license plates as may be necessary to conduct their businesses. Mobile home dealers who also sell recreational vehicles may obtain and use dealer plates in connection with the sale of recreational vehicles. Wholesale dealers, salvage dealers, and those who are licensed and deal exclusively in mobile homes are not entitled to procure or use dealer plates. Dealers who sell motorcycles may obtain 4x6 inch motorcycle dealer plates to be displayed on motorcycles.

b. WHEN DEALER PLATES MAY BE USED

Dealer plates may be used on vehicles which are operated in connection with a dealer's business; on vehicles while being used for demonstration purposes, with or without a representative of the dealer in the vehicle; on vehicles which are in transit to or from a dealer's place of business; on vehicles loaned, without compensation, to a customer by a dealer while the customer's vehicle is being repaired by the dealer; on vehicles, such as service trucks, used by a dealer for hauling equipment or commodities, or making service calls, where compensation is not a consideration; and, on vehicles owned by the dealer while in inventory and for sale.

c. WHEN DEALER PLATES MAY NOT BE USED

Dealer plates may not be used on service trucks used for hauling or making service calls for compensation, on parts or supply trucks calling on retail or wholesale trade, or on wreckers (s. 320.13, F.S.). A licensed wholesale motor vehicle dealer does not have the privilege of using dealer license plates. Dealer plates are not to be used for private use by a dealer or family member, to evade proper registration, when the vehicle is not being used for dealer business.

d. REPLACEMENT

Dealer plates may be replaced if the originals have been destroyed, lost, or stolen, provided that the dealer has reported such loss to a law enforcement agency prior to the issuance of a replacement plate (visit the Department's <http://www.flhsmv.gov/html/forms.html> to access form HSMV 83146, Application for Replacement License Plate, Validation Decal, or Parking Permit). Although a use tax must be paid by a dealer for each plate obtained, the use tax is not required on replacement dealer plates.

e. REGISTRATION PERIODS

The registration periods for dealer license plates run concurrently with the dealer license period.

f. MISUSE/ABUSE

Misuse or abuse of dealer license plates can result in severe sanctions being taken against a dealer's license. The use of a dealer plate on the car of a member of a dealer's family, when the vehicle is truly not in inventory and for sale, but rather is being used without paying taxes or license fees, is a violation of the motor vehicle laws, as well as the sales tax laws of the state. A dealer plate may not be used for the purpose of testing or driving a vehicle, to determine whether a dealer wishes to purchase that vehicle. In essence, the use of dealer

plates must be confined to those purposes specified, authorized, and described in paragraph (b) on the previous page.

2. PURCHASE AND ISSUANCE OF TEMPORARY TAGS

320.131, F.S., 15C-1.003, 15C-1.004, F.A.C.

a. AUTHORITY TO PURCHASE

All Florida dealers must issue electronic temporary registration to consumers to whom they have sold vehicles (if the consumer does not have a metal plate to transfer) in accordance with section 320.96, Florida Statutes. Electronic Temporary Registration (ETR) is an electronic method for dealerships to report the issuance of temporary license plate. This is an effective way to capture the registration information associated with the issuance of temporary tags.

Dealers can visit the Department's website at <http://www.flhsmv.gov/etr/etr.html> to get more information on the list of providers authorized by the Department to provide this service. The site also gives a variety of information regarding the ETR program. Dealers that do not have access to the providers may contact the Tax Collector's office for the temporary license plate.

The pre-printed temporary license plates in possession of the dealer may be used by the dealer for trailers that are under 2,000 lbs, or when there is a system outage.

When a temporary license plate is being issued to a motorcycle, size (4x6) motorcycle temporary license plate must be used. This temporary license plate cannot be used on any vehicle other than a motorcycle.

Dealers licensed to sell motor vehicles and recreational vehicles retail are authorized to purchase pre-printed temporary tags for use when there is an ETR system outage, in multiples of five, from any tax collector's office or regional office of the Division of Motorist Services. A dealer purchasing tags must pay the required fee plus a service fee on each transaction (to access form HSMV 83090, Application by Florida Motor Vehicle,

Mobile Home, or Recreation Vehicle Dealer for Temporary Plates, visit the Department's website at <http://www.flhsmv.gov/html/forms.html>. When a dealer issues a preprinted temporary tag because of a system outage, the dealer must report that issuance via their ETR vendor within one business day.

Detailed information is available in Procedure RS 31 on Temporary License Plates. This procedure can be accessed at <http://www3.flhsmv.gov/dmv/Proc/RS/RS-31.pdf>.

b. LIMITATIONS ON ISSUANCE

A dealer may only issue temporary tags for vehicles sold by same dealer. Tags are not transferable between dealers, may not be bartered or sold between dealers, and may not be used more than once. Violations of these restrictions may result in severe administrative sanctions being taken against a dealer's license. Temporary tags are valid for no more than thirty (30) days from the date of issuance (visit the Department's website at <http://www.flhsmv.gov/html/forms.html> to access form HSMV 83091, Application for Temporary License Plate. Proof of insurance is required for the issuance of all temporary tags. For more information on dealer plate issuance, please access the Dealer Advisories at <http://www.flhsmv.gov/dmv/DirAdv/DAindex.html>.

The issuance of a temporary tag in no way relieves the vehicle purchaser/owner of the requirement of having insurance coverage on the vehicle at any time it is operated on the streets and highways of Florida. Because civil liabilities may incur, dealers are strongly urged not to become a party to allowing an uninsured motorist to operate a motor vehicle.

A thirty (30) day temporary tag may also be provided to a resident of another state/country who purchases a vehicle in Florida and intends to transport that vehicle to their home state/country for proper titling and registration. Proof of insurance must also be obtained from out of state/country residents.

Dealers are required to account for each pre-printed temporary tag issued. A temporary tag log in numerical order must be maintained. The Compliance Examiner will conduct periodic inspection of records and will verify the accuracy of the records maintained by the dealerships regarding pre-printed stock of temporary license plates. Detailed information is available in Procedure RS 31 on Temporary License Plates. This procedure can be accessed at <http://www3.flhsmv.gov/dmv/Proc/RS/RS-31.pdf>.

c. MISUSE/ABUSE

The most common instances of misuse/abuse of temporary tags occur when a dealer issues more than two temporary tags to the same person for use on the same vehicle. This often occurs because a dealer has not properly carried out the dealer's responsibility of applying for title and registration within thirty (30) days of the date of sale/delivery, has sold a vehicle without properly having title in the dealer's possession at the time, or otherwise has been inattentive to the responsibilities and legal requirements of selling motor vehicles or recreational vehicles. The Division of Motorist Services holds dealers responsible for their conduct and will impose severe sanctions on any dealer who misuses or abuses temporary tag privileges. Even though fines may be levied against a dealer's license, or suspension or revocation of the license may be imposed, the Division may also deny the licensee the privilege of purchasing and issuing temporary tags, which may have a severe impact on a dealer's business.

Temporary tags may only be issued to vehicles in the dealer's inventory. Each tag must be issued for thirty (30) days. The ETR process will result in a Vehicle Registration being printed. In duplicate – one for the customer and one for the dealer jacket.

The ETR system will allow four temporary tags per vehicle (VIN number), with a maximum of two temporary tags per customer, as is currently required by statute. If a dealer needs to issue a third or fourth temporary tag, it must be to a different customer already in the database (previous customer number or driver license number)

consecutive temporary tags to be issued to the same vehicle no matter how many different customers were issued the plate.

If there is an ETR system outage, then the dealer may issue a pre-printed temporary tag and will complete a temporary tag registration (visit the Department's website at <http://www.flhsmv.gov/dmv/forms/BTR/83091.pdf> to access form HSMV 83091, Application for Temporary License Plate). The customer is given the white copy and the dealer retains the yellow copy in the deal jacket. Pre-printed temporary tags are to be completed using black permanent marker and must be issued for thirty (30) days. A temporary tag is void if it is altered. If a mistake is made while issuing a temporary tag, write void across the face of the incorrect tag and registration and issue another correct one. The issuance of a pre-printed temporary tag by a dealer must be reported to the department electronically through the dealer's ETR vendor within one business day. In addition, the dealer must also complete HSMV Form 82082, Off-Line Issuance of a Pre-Printed Temporary License Plate and explain why they did not issue the temporary tag via the ETR system. The 82082 must be maintained in the deal jacket and retained for five years.

Dealers are authorized to issue temporary tags in the name of their own dealership for vehicles being taken to and from a sale.

The dealer can obtain information about the ETR system by visiting:

<http://www.flhsmv.gov/etr/etr.html>.

2. ACCESSIBILITY TO TITLE AND REGISTRATION RECORDS

One of the privileges accompanying a dealer license is the dealer's ability to obtain title and registration information from the Department's computer database. The information may also be obtained through any tax collector's main or branch office. The Department has also made available limited vehicle registration information on-line at the Department's website [https://www6.hsmv.state.fl.us/rrDivision of Motorist Servicescheck/mvchecking](https://www6.hsmv.state.fl.us/rrDivision%20of%20Motorist%20Servicescheck/mvchecking).

4. **TEMPORARY OFF-PREMISES SUPPLEMENTAL SALE PERMIT FOR MOTOR VEHICLE, MOBILE HOME OR RECREATIONAL VEHICLE DEALERS**

320.27(5), 320.77(7), 320.771(7), F.S.

A Florida licensed motor vehicle, mobile home, or recreational vehicle dealer is permitted to participate in a temporary sale at a location other than at the licensed location for a period not to exceed ten (10) consecutive days. In order to participate in such sale, each dealer must obtain a temporary sale supplemental license permit issued by the Bureau of Motor Vehicle Field Operations, Regional Office. There is no charge for the permit but it must be in the licensed dealer's possession at the time of the temporary sale. Application forms for the permit, HSMV Form 84200, [Temporary Off-Premises Sale License Application by a Dealer](#), are available from any Compliance Examiner or from any Bureau of Motor Vehicle Field Operations, Regional Office or online at <http://www.flhsmv.gov/html/forms.html>. Applications for permits should be filed with the appropriate Bureau of Motor Vehicle Field Operations, Regional Office responsible for the dealership at least ten (10) days prior to the scheduled temporary sale to ensure the permit is issued before the sale begins.

To obtain such a temporary supplement permit for off-premise sales, motor vehicle dealers must:

(1) Be a licensed motor vehicle, mobile home, or recreational vehicle dealer;

(2) Provide written permission from the property owner to sell vehicles at that location or a notarized affidavit from the dealer certifying that property owner's permission has been granted.

During the sale, the dealer must:

(1) Display a sign at the licensed supplemental location for the duration of the off-premise sale;

(2) Provide staff to work at the temporary supplemental location for the duration of the off-premise sale; and

(3) Meet any local government permitting requirements.

A **franchise motor vehicle dealer** must also provide documentation that the off-premise sale has been approved by the manufacturer, distributor, or importer with whom it has a franchise agreement. They must notify the manufacturer, distributor, or importer of their intent to have an off-premises sale five (5) days prior to the date of the off-premises sale and the manufacturer shall either approve or disapprove of the off-premises sale within two (2) working days of receiving the request. If the manufacturer, distributor, or importer does not notify the dealer within two (2) working days of the off-premises sale, it shall be deemed approved.

These requirements do not apply to a non-selling motor vehicle show or public display of new motor vehicles.

RV dealers who participate in an off-premises sale involving the sale of new RVs must also provide the following:

(1) WITHIN THE DEALER'S AREA OF RESPONSIBILITY:

A notarized affidavit, signed by the dealer applying for the off-premises license, stating that the sale will be held in the dealer's designated sales area.

Dealers selling new RVs will not be allowed to sell outside their area of sales responsibility unless they provide one of the following:

(2) IN ANOTHER DEALER'S AREA OF SALES RESPONSIBILITY:

A written agreement signed by the dealer, the manufacturer of the new RV's that will be sold at the off-premise sale site, and the dealer in whose designated area of sales responsibility the off-premise sale will occur in. The agreement must:

- a. Identify the RV line-make to be sold
- b. List the dates of the off-premise sale; and
- c. Affirmatively authorize the sale of the same RV line make.

(3) OPEN AREA OF SALES RESPONSIBILITY:

A notarized affidavit stating that the sale is not in any other dealer's area of sales responsibility and is in conjunction with a public show.

(4) USED UNITS

A notarized affidavit stating the dealer will use the off-premise sale for used RVs only.

(5) MORE THAN 35 DEALERS IN A PUBLIC VEHICLE SHOW:

A notarized affidavit stating the off-premise sale is in conjunction with a public vehicle show in which more than 35 dealers are participating and the show is predominantly funded by manufacturers. "Public vehicle show" means an event sponsored by an organization approved under s.501.(c)(6) of the Internal Revenue Code which has the purpose of promoting the welfare of the RV Industry and is located at a site that:

- a. Will be used to display and sell recreational vehicles
- b. Is not the location set forth on any dealer's license as its place of business
- c. Is not used for off-premise sales for more than 10 days in a calendar year

RV dealers selling used RVs do not have to meet any of the "Special Instructions for Recreational Vehicle Dealers Selling "New" Recreational Vehicles" requirements above, however all other requirements outlined in this procedure must be met.

5. CURBSTONING

316.1951, 320.58, F.S.

Curbstoning

Section 316.1951(1), Florida Statutes, provides that it is unlawful for any person to park a motor vehicle, as defined in section 320.01, Florida Statutes, upon a public street or highway, upon a public parking lot, or other public property, or upon private property where the public has the right to travel by motor vehicle, for the principal purpose and intent of displaying the motor vehicle thereon for sale, hire, or rental unless the sale, hire, or rental of the motor vehicle is specifically authorized on such property by municipal or county regulation, and the person is in compliance with all the municipal and county licensing regulations.

Section 316.1951(2), Florida Statutes, does not prohibit a person from parking their own motor vehicle or their other personal property on any private real property which the person owns or leases or on private real property which the person does not own or lease, but for which they obtain the permission of the owner, or on the public street immediately adjacent thereto, for the principal purpose and intent of sale, hire, or rental.

Section 316.1951(3), Florida Statutes, does not prohibit a licensed motor vehicle dealer from displaying for sale or offering for sale motor vehicles at locations other than the dealer's licensed location if the dealer has been issued a supplemental license for off-premises sales, as provided in s. [320.27\(5\)](#), and has complied with the requirements in subsection (1). A vehicle displayed for sale by a licensed dealer at any location other than the dealer's licensed location is subject to immediate removal without warning.

Section 316.1951(4), Florida Statutes, states that a local government may adopt an ordinance to allow the towing of a motor vehicle parked in violation of this section. A law enforcement officer, Compliance Examiner, code enforcement officer from any local government agency, or supervisor of the Department may issue a citation on form HSMV 84117 and cause to be immediately removed at the owner's expense any motor vehicle found in violation of subsection (1), except as provided in subsections (2) and (3), or in violation of subsection (5), subsection (6), subsection (7), or subsection (8), and the owner shall be assessed a penalty as provided in

section 318.18(21), F.S. by the government agency or authority that orders immediate removal of the motor vehicle. A motor vehicle removed under this sections shall not be released from an impound, or towing and storage facility before a release form prescribed by the department has been completed verifying that the fine has been paid to the government agency or authority that ordered immediate removal of the motor vehicle. However, the owner may pay towing and storage charges to the towing and storage facility pursuant to section 713.78, F.S. before payment of the fine or release form has been completed. Form HSMV 84060- "Authorization to Release Vehicle After Curbstoning Citation" is the department approved form for a person to complete and pay the fine to the department prior to getting the motor vehicle released from the impound or storage and towing facility.

Section 318.18(21), Florida Statutes, provides a fine of one hundred dollars for a violation of section 316.1951, F.S. for a vehicle that is unlawfully displayed for sale, hire or rental.

Section 316.1951(5), Florida Statutes, It is unlawful to offer a vehicle for sale if the vehicle identification number has been destroyed, removed, covered, altered, or defaced, as described in s. [319.33](#)(1)(d). A vehicle found in violation of this subsection is subject to immediate removal without warning.

Section 316.1951(6), Florida Statutes, It is unlawful to knowingly attach to any motor vehicle a registration that was not assigned or lawfully transferred to the vehicle pursuant to s. [320.261, F.S.](#) A vehicle found in violation of this subsection is subject to immediate removal without warning.

Section 316.1951(7), Florida Statutes, It is unlawful to display or offer for sale a vehicle that does not have a valid registration as provided in s. [320.02](#). A vehicle found in violation of this subsection is subject to immediate removal without warning. This subsection does not apply to vehicles and recreational vehicles being offered for sale through motor vehicle auctions as defined in s. [320.27](#)(1)(c)4, F.S.

Section 316.1951(8), Florida Statutes, A vehicle is subject to immediate removal without warning if it bears a telephone number that has been displayed on three or more vehicles offered for sale within a 12-month period.

Section 316.1951(9), Florida Statutes, Any other provision of law to the contrary notwithstanding, a violation of subsection (5), subsection (6), subsection (7) or subsection (8) shall subject the owner of such motor vehicle to towing fees reasonably necessitated by removal and storage of the motor vehicle and a fine as required by section 318.18, Florida Statutes.

Section 316.1951(10), Florida Statutes, This section does not prohibit the governing body of a municipality or county, with respect to streets, highways, or other property under its jurisdiction, from regulating the parking of motor vehicles for any purpose.

Section 316.1951(11), Florida Statutes, A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in Chapter 318, F.S. unless otherwise mandated by general law.

A violation of this section is a non-criminal traffic infraction, punishable as a non moving violation as provided in Chapter 318, F.S. unless otherwise mandated by general law.

Curbstoners may be selling vehicles for which they do not possess a title or selling stolen vehicles. This kind of sale causes unreasonable competition with license motor vehicle dealers who have to incur various expenses and comply with the motor vehicle laws in order to be licensed by the Department. Dealers who violate the law are subject to the Department filing an administrative complaint to revoke their license.

PART VI

Compliance

A. HANDLING AND DISPOSITION OF CONSUMER COMPLAINTS

1. DEPARTMENT PHILOSOPHY

The Department of Highway and Safety and Motor Vehicles is given the responsibility to investigate and resolve complaints filed by consumers against dealers. These complaints are processed through the Division of Motorist Services, Regional Office that has the particular area of responsibility. If the complaint is against a mobile home, recreational vehicle, or motor vehicle dealer, the responsibility is given to the Bureau of Motor Vehicle Field Operations. If the complaint involves the manufacturer of mobile homes or recreational vehicles or if it involves the set up of a mobile home, the area of responsibility is given to the Manufactured Housing Section. Since there is a substantial financial interest to the consumer and the dealer it becomes a very serious matter. All available resources are allocated to the Division of Motorist Services complaint programs. The entire field staff of the Division of Motorist Services, which includes personnel in the Manufactured Housing Section and Bureau of Motor Vehicle Field Operations, is responsible for the field work and investigation necessary to resolve complaints.

The Division does not make any assumptions of responsibility or liability when a complaint is filed. The Department attempts to assist in the resolution of complaints in an equitable manner.

The Division has established three objectives, which clearly outline its philosophy regarding consumer complaints, the relationship between consumers and dealers, and the relationship between dealers and the Division. Those three objectives, in order of priority are:

- a. Bring about a timely resolution;
- b. Educate licensees to ensure that violations of statutes and rules administered by the Division will not be repeated; and
- c. Impose administrative sanctions on dealers who demonstrate a pattern of wrong doing by violating the laws administered by the Division, if cooperation of the dealer is not forthcoming.

2. HOW COMPLAINTS ARE RECEIVED

The procedures of the Division of Motorist Services require that complaints from consumers must be submitted in writing. This ensures that all the issues in the complaint are recorded and can be made an official part of the process of the investigation. Complaints may be submitted to the Division of Motorist Services in Tallahassee or through any of the Division's field offices. Once received, the complaints are carefully reviewed to determine if the Division has jurisdiction over the issues raised. If not, the complaint and the complainant will, whenever possible, be referred to another agency that may be in a better position to assist the consumer. If the review process indicates that the Division does have jurisdiction over the issue or issues raised by the complainant, the case will be assigned for processing.

3. PROCESSING OF COMPLAINTS

When a determination has been made that the Division has jurisdiction, the Regional Office will assign complaints to the Compliance Examiner serving the area in which the dealership is located.

Mobile home or recreational vehicle construction complaints are assigned to a Compliance Examiner of that bureau in the area where the unit is located.

A Compliance Examiner with the Bureau of Motor Vehicle Field Operations will contact the dealer or the dealer's authorized representative and hand deliver, mail, or fax a copy of the complaint along with a letter advising the dealer that a complaint has been received. The cover letter to the dealer will have space for the dealer to sign and date acknowledging receipt of the letter. The dealer's signature on the letter does not constitute admission or acceptance of any blame or responsibility for the contents of the complaint, but merely acknowledges receipt.

In the case of mobile home or recreational vehicle complaints, a Compliance Examiner from the Manufactured Housing Section may visit the complainant and inspect the unit to verify the existence of construction code violations.

4. THE INVESTIGATION PROCESS

In attempting to determine what happened and to resolve complaints, the Regional Office Compliance Examiner will ask dealers, corporate officers, and the dealer's employees' questions concerning the particular transaction involved and will certainly ask to see records involving the transaction. It is expected that dealers cooperate with the Division's personnel in every way

possible and provide whatever information is requested so the complaint can be quickly resolved to the satisfaction of all parties. Compliance Examiners are specifically trained in conducting investigations involving complaints and may ask very pointed and probing questions of a dealer, corporate officers, or the dealer's employees. Again, it is expected that the dealer will be cooperative in providing the requested information.

The most important thing that the Division needs to do to resolve a complaint is documentation to substantiate the positions of both the dealer and the consumer when there is disagreement. The Division will not resolve a complaint, close a complaint, or accept as factual, on the strength of promises or words alone, that something has been done or will be done. The Division insists on specific documentation to support each finding of fact in a complaint investigation and will accept nothing less before resolving a complaint. When such documentation cannot or will not be produced, it must be assumed that it does not exist.

5. UNRESOLVABLE COMPLAINTS

Situations will arise where both the consumer and the dealer claim that their position is right and thus find themselves at extreme opposite viewpoints. When the Division of Motorist Services is unable to mediate a satisfactory compromise, it may be left to the parties to seek legal assistance in resolving the matter; however, the Division will take all appropriate steps to assist all parties to achieve a reasonable resolution to each complaint.

In the case of mobile home or recreational vehicle complaints, when a dealer receives a consumer complaint or other information concerning the sale of a manufactured home by them which indicates the possible existence of an imminent safety hazard or a serious defect or noncompliance in the home, the dealer will refer the matter to the manufacturer of that home. This is normally done in writing. If the dealer is not satisfied with the action taken by the manufacturer to correct the situation, the dealer may refer the matter to the state administrative agency (SAA) responsible for administering the HUD program in the state where the home was manufactured. In Florida, the Manufactured Housing Section in the Department of Highway Safety and Motor Vehicles is the state administrative agency.

B. ADMINISTRATIVE DISCIPLINARY ACTIONS

1. DIVISION PHILOSOPHY

It is the policy of the Division of Motorist Services that when appropriate, administrative disciplinary action should and will be taken against licensed dealers.

The appropriateness of situations leading to administrative actions depends on a number of factors including: the nature and seriousness of the violation; the number of previous similar violations; any previous administrative action; other violations committed by the dealer; total previous history of the dealer's compliance with requirements; and the cooperativeness of the dealer in resolving complaints, producing records, and correcting problems.

A dealer should keep in mind that the Division's primary goal in complaint cases is to assist in the satisfactory resolution of complaints. Administrative action, designed to sanction a dealer who violates the laws and rules, is only secondary in importance to resolving complaints and will only be used if it is determined by the agency that the dealer's cooperation cannot be obtained in any other manner or the dealer's action or pattern of violation are continuous and consumer protection is necessary.

2. SANCTIONS AVAILABLE

Sanctions available to the Division which may be levied against any licensed motor vehicle, mobile home, or recreational vehicle manufacturer and dealer for violations of the statutes or rules administered by the Division include:

- a. Fines up to \$1,000 per violation;
- b. A suspension for either a definite period of time or indefinitely;
- c. An Emergency Summary Suspension, which may be imposed by the Director of the Division of Motorist Services, to protect the public, in very serious cases;
- d. Revocation of the dealer's license; and
- e. Criminal charges.

3. EXAMPLES OF ADMINISTRATIVE ACTION CASES

The following is a partial list of some typical situations, which have resulted in administrative actions being filed against motor vehicle, mobile home, or recreational vehicle manufacturers and dealers:

- a. Dealer convicted of a felony;
- b. Failure to satisfy lien within the statutory time frame.
- c. Failure to transfer titles within the time frame specified by statute;
- d. Failure to disclose the rebuilt status of a vehicle;
- e. Falsifying title application documents;
- f. Possessing open titles;
- g. Failure to obtain a license before beginning operation of a main or supplemental location;
- h. Selling a used car as a new car;
- i. Failure to keep proper records;
- j. False advertising;
- k. Misuse of temporary tags by issuing more than two to the same person for use on the same vehicle;
- l. Misuse of dealer license plates;
- m. Allowing an unauthorized person to use a dealer license number;
- n. Fraud in a consignment sale by failing to transfer title to the buyer and/or failing to pay the seller;
- o. Failure to honor written sales contracts;
- p. Perpetration of fraud;
- q. Advertising and selling vehicles with improper model year designation;
- r. Fraud in making application for a dealer license;
- s. Altering vehicle identification numbers;
- t. Odometer tampering;

- u. Failure to possess titles to vehicles from the time of acquiring vehicles until the time of disposing of such vehicles;
- v. Failure to return deposits;
- w. Selling stolen vehicles;
- x. Improper set-up of a mobile home;
- y. Manufacturing park trailers in violation of standards;
- z. Manufacturing recreational vehicles that fail to meet code standards;
- aa. Failure to return deposits on contingency contracts;
- bb. Failure to maintain requirements for licensure by issuing dishonored checks for license fees;
- cc. Failure to pay off floor planned vehicles;
- dd. Selling a vehicle on which a VIN plate has been removed;
- ee. Overcharging title and registration fees;
- ff. Forging lien receipts;
- gg. Altering Manufacturers' Statements or Certificates of Origin and titles;
- hh. Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another dealer;
- ii. Sale of a trade in vehicle prior to securing newly purchased vehicle except if disclosure is provided;
- jj. Abandonment of location;
- kk. Failure to maintain business sign with the name of the dealership;
- ll. Consistently selling unauthorized line-makes;
- mm. Failure to maintain surety bond; and
- nn. Failure to maintain garage liability insurance.

4. ADMINISTRATIVE COMPLAINT PROCESSES

120.57, 120.57(1) (b), 120.57(2), F.S.

If the facts warrant, an administrative complaint will be prepared and submitted to the Director for signature. An administrative complaint is a legal document that contains the specific actions alleged to have been committed by the dealer, the specific statutes and rules violated, and notification of the dealer's right to a hearing. This document is signed by the Director of Division of Motorist Services.

If the case revolves around such serious violations that, to allow the dealer to continue in business while awaiting a hearing on the charges may be detrimental to the welfare of the public, the Director may require that the administrative complaint be accompanied by an Order of Emergency Suspension that immediately suspends the dealer's right to do business, pending the outcome of a hearing and the issuance of a final order. Orders of emergency suspension are issued very sparingly and only in cases where allowing a dealer to remain in operation may cause irreparable harm (loss of money) to the public who may continue to purchase vehicles from the dealer. Most such cases involve fraudulent practices.

Once signed, a copy of the administrative complaint is sent to the dealer by certified mail, personal service or service by publication. The dealer is then given twenty-one (21) days from receipt of the complaint in which to request a hearing. If no request is received in that time period, a final order is prepared for the Director's signature. The order will be based on the totality of information available to the agency, which is generally that information contained in the investigative file and the administrative complaint.

Within the twenty-one (21) day period, the dealer may request a hearing pursuant to s. 120.57, F.S. If the dealer notifies the Director of the selection of a hearing pursuant to section 120.57(2), F.S., in which there are no issues of disputed fact, such hearing will be scheduled by the individual who serves as the Division's hearing officer. When scheduled, the dealer will be sent a document called a Notice of Hearing, which informs the dealer of the date, time, and place of the hearing.

An informal hearing is where the dealer is given the opportunity to explain their side of the allegations contained in the complaint and the Department the opportunity to respond. Strict rules of evidence and procedure are normally not followed. Informal hearings generally last one to two hours. Following the conclusion of the hearing, the hearing officer will prepare a Final Order for the Director's review and signature.

If a dealer requests an evidentiary hearing, the case is sent to the Division of Administrative Hearings (DOAH), a Division within the Administration Commission. DOAH assigns an administrative law judge to the case. The administrative law judge schedules and presides over the hearing. The hearing is formal in nature, like a court trial. Rules of evidence and procedure are closely followed. A court reporter is present for the proceedings. Both the dealer and the agency are normally represented by attorneys. When the hearing is concluded, the administrative law judge has ninety (90) days in which to prepare and submit a Recommended Order to the agency. The Recommended Order contains the administrative law judge's findings of fact, conclusions of law, and recommended action. All parties are given fifteen (15) days in which to file exceptions to the Recommended Order. The Director of the Division of Motorist Services then issues a Final Order. The Final Order issued by the Director, whether resulting from a formal or informal hearing, may provide for any of the sanctions described earlier or may result in a complete dismissal of any charges against the dealer.

All dealers are expected to adhere to the directives required in the Director's Final Order. Should a dealer not agree with or accept a Final Order issued by the agency, the dealer has the prerogative of appealing the decision through the courts.

C. JUDICIAL ACTIONS

It is the policy of the Division of Motor Vehicles that any person, firm, business, or organization which or who is unlicensed to buy, sell, or offer for sale motor vehicles, mobile homes, or recreational vehicles under conditions which would require such person, firm, business, or organization to be licensed under the statutes regulated by the Division of Motorist Services, be prohibited from doing so by whatever legal means are available. Generally, the Department has available two (2) mechanisms for ensuring that persons do not violate the motor vehicle, mobile home, or recreational vehicle licensing laws. The first is through the filing of a complaint against the violator and the issuance of an injunction by a circuit court in the area where the activity is occurring. This has been and will continue to be used by the Division as an effective means of prohibiting unfair competition with those dealers complying with the licensing laws. The second mechanism is through the filing of a deceptive and unfair trade practices case as a cooperative effort between the Division and either the local State Attorney's Office or the Office of the Attorney General, Consumer Section, Economic Crime Litigation Unit. The penalties associated with an unfair and deceptive trade practice case can include cease and desist orders and fines of up to \$5,000 per violation.

PART VII

Electronic Temporary Registration

Section 320.96 Florida Statutes

Metal Plate Transfer

The Electronic Temporary Registration (ETR) system provides dealerships with the ability to submit license plate transfer information to the Department electronically at the time of sale and transfer of the metal license plate. Below is an explanation of the electronic process.

A customer purchases a vehicle from a dealer and has a metal license plate to transfer to their new vehicle. The dealer uses the ETR system to enter the individual's personal and vehicle information. This information is verified against the Department's motor vehicle database and if everything is in order, it allows the transfer of the registration to the new vehicle. The dealer may then move the customer's metal license plate to the customer's new vehicle. The customer will leave the dealership displaying his permanent metal license plate on the rear of his vehicle.

An ETR dealer may issue a pre-printed temporary license plate only in case of an ETR system outage. The dealer must report the issuance to the Department electronically within one business day (excluding weekends and holidays) of issuing the temporary license plate. Please review additional requirements for issuing a pre-printed temporary license plate as provided in procedure RS-31 Temporary License Plates at the following link <http://www3.flhsmv.gov/Division of Motorist Services/Proc/RS/RS-31.pdf>.

For detailed information and current updates on the ETR system, please access <http://www.flhsmv.gov/etr/etr.html>.

For detailed information for procedures and e-mail updates, please access <http://www3.flhsmv.gov/dmv/Proc/>.

Electronic Filing System

The Electronic Filing System (EFS) already has the capability of transferring a metal plate to a newly acquired vehicle. Therefore, an EFS dealer would enter the license plate transfer information, transfer the metal license plate to the new vehicle, and print the new registration for the customer just as they are currently.

These two systems provide law enforcement agencies with instant access to motor vehicle transfer information via DAVID, so there is no confusion about what license plate is assigned to what vehicle. This is helpful in the event an individual is pulled over by law enforcement after leaving the dealership.

Non-ETR or Non-EFS Dealers

A dealer that does not use the EFS or the ETR system must visit a tax collector's office to have the appropriate transaction performed before allowing the customer to drive the vehicle off the lot. The appropriate transaction may be the issuance of a temporary license plate, the temporary transfer of a metal license plate, or the issuance of the permanent title and registration.