

Chapter 308-66 WAC

MOTOR VEHICLE DEALERS AND MANUFACTURERS

WAC

308-66-110	Definitions.
308-66-120	Dealer's license application.
308-66-135	Expiration of dealer and manufacturer licenses.
308-66-140	Place of business and places of business.
308-66-145	Established place of business—Waiver procedure.
308-66-150	Warranty practices.
308-66-152	Unlawful practices.
308-66-155	Consignment.
308-66-157	Listing.
308-66-160	Dealer's and manufacturer's license plates.
308-66-165	Vehicle sales transactions.
308-66-170	Denial, suspension or revocation of license.
308-66-175	Buyer's agent—Standard disclosures.
308-66-177	Trust account.
308-66-180	Record of transactions.
308-66-182	Records—Buyer's agents.
308-66-190	Transfer of certificate of title by dealer.
308-66-195	Possession of certificates of ownership.
308-66-200	Assignment of vehicle to another dealer.
308-66-210	Statement of change in business structure, ownership interest or control.
308-66-211	Termination of business.
308-66-212	Sale, transfer or other disposition of noncorporate licensee.
308-66-214	Incorporation of licensee while licensed.
308-66-220	Display of vehicles by combination wrecker-dealer.
308-66-225	Remanufactured vehicles in whole or in part.
308-66-227	Disclosure of title brands.
308-66-240	Bond cancellation, closure notice.
308-66-250	Internet business.
308-66-260	Dealer license plates—Waiver procedure.
308-66-270	Vehicle industry organization—Definition.
308-66-280	Course and education provider approval required.
308-66-290	General requirements for course approval.
308-66-300	Disciplinary action—Procedures—Investigation.
308-66-310	Grounds for denial or withdrawal of education provider or course material.
308-66-320	Hearing procedure.
308-66-330	Record retention.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-66-130	Salesman's license application. [Order MV 170, § 308-66-130, filed 7/16/73; Order 70-08-04, § 308-66-130, filed 8/6/70; Order 2, § 308-66-130, filed 1/29/68.] Repealed by 87-01-016 (Order DLR 115), filed 12/9/86. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1.
308-66-156	Guaranteed title. [Statutory Authority: RCW 46.70.160. 91-03-092, § 308-66-156, filed 1/18/91, effective 2/18/91.] Repealed by 98-20-039, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160.
308-66-196	Possession of custom documents. [Statutory Authority: RCW 46.01.110. 93-14-084, § 308-66-196, filed 6/30/93, effective 7/31/93.] Repealed by 98-20-039, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160.
308-66-205	Vehicle odometer disclosure. [Statutory Authority: RCW 46.70.160. 96-19-025, § 308-66-205, filed 9/9/96, effective 10/10/96; 90-24-054, § 308-66-205, filed 12/3/90, effective 1/3/91.] Repealed by 98-20-039, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160.
308-66-206	Secure odometer power of attorney forms. [Statutory Authority: RCW 46.70.160. 90-24-054, § 308-66-206, filed 12/3/90, effective 1/3/91.] Repealed by 96-19-025, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160.
308-66-213	Partial sales transfer or disposition of noncorporate licensee. [Order MV 170, § 308-66-213, filed 7/16/73; Order 70-08-04, § 308-66-213, filed 8/6/70.] Repealed

by 91-20-057, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160.

308-66-215 Mergers and consolidations of corporations. [Statutory Authority: RCW 46.70.160 and 46.70.041. 91-20-057, § 308-66-215, filed 9/24/91, effective 10/25/91; Order MV 170, § 308-66-215, filed 7/16/73; Order 70-08-04, § 308-66-215, filed 8/6/70.] Repealed by 96-19-025, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160.

308-66-230 Titles—Combination tow truck operator-dealer. [Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-230, filed 12/9/86; Order 69-1, § 308-66-230, filed 8/28/69; Order 2, § 308-66-230, filed 1/29/68.] Repealed by 96-19-025, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160.

WAC 308-66-110 Definitions. For the purpose of administering chapter 46.70 RCW, the following terms shall be construed in the following manner:

(1) "Offering" the sale of a vehicle shall include the distribution by any means of a list, with or without prices, of vehicles for sale.

(2) "Soliciting" the sale of a vehicle shall include an offer to effect the purchase or sale of a vehicle on behalf of another person.

(3) "Normal business hours" or "reasonable times" shall include, but not be limited to, the hours from 10:00 a.m. through 4:00 p.m. for five days each week. When a dealer closes the place of business during normal business hours, a sign must be posted on the main door of the business stating the time that the dealer will next be open for business and how the dealer may be contacted provided that this is not permission to routinely avoid maintaining normal business hours.

(4) An "employee" of a dealer is a person on the payroll who appears on the record of the dealer as an employee for whom Social Security, withholding tax, and all deductions required by law have been made.

(5) A "broker" shall mean any person acting independently, who for a commission, fee or any other form of compensation arranges or engages in the wholesale or retail purchase, sale or lease with option to purchase, of a vehicle.

(6) A "vehicle dealer identification card" is a card, prescribed by the department and issued by a licensed dealer, that is used to identify the principal of a dealership, including a corporate officer, a partner of a partnership, or sole proprietor, or a member of a limited liability company, or an "employee," for purposes of driving a vehicle bearing dealer license plates.

(7) A "demonstration permit" is a permit issued by a dealer to a prospective customer entitling the prospective customer to operate a particular vehicle for demonstration purposes.

(8) Current service agreement - The agreement between a vehicle manufacturer or vehicle distributor and a seller, stipulating that the seller will provide warranty adjustments for the owners of that manufacturer's or distributor's new

vehicles which qualify for adjustments under the manufacturer's or distributor's warranty.

(9) New vehicle warranty - The warranty extended by a manufacturer or distributor to the first retail purchaser.

(10) "Closing" shall mean the process of completion of sale transaction.

(11) "Completion of sale" in the case of a consigned vehicle shall mean that the purchaser has possession of the vehicle, all liens against the vehicle are paid, the seller has the proceeds of sale, and title to the vehicle has been transferred to the retail purchaser.

(12) "Listing" shall mean a contract between a seller of a used mobile/manufactured home and a listing dealer for the dealer to locate a willing purchaser for that home.

(13) "Consignment" shall mean an arrangement whereby a vehicle dealer accepts delivery or entrustment of a vehicle and agrees to sell the vehicle on behalf of another.

(14) "Remanufactured" shall mean to remake or reprocess into a finished product by a large scale industrial process.

(15) "Guaranteed title" as it relates to a consigned vehicle shall mean a guarantee by the consignor to convey title to the consignee upon sale of the vehicle. The consignment agreement between the consignor and consignee shall comply with the provisions of WAC 308-66-155.

(16) "Used vehicle" in keeping with RCW 46.04.660, and for purposes of the requirement for a service agreement in RCW 46.70.101 (1)(a)(vii), a vehicle will be considered used if it meets the following requirements:

(a) It has been titled or registered to a bona fide retail purchaser/lessee for a period of 90 days or more; and

(b) The vehicle has been operated (driven) to the extent that its odometer registers 3,000 miles or more.

However, the requirements of (a) and (b) of this subsection will not apply if a bona fide retail purchaser/lessee sells, trades, or otherwise disposes of the vehicle prior to its having met those requirements. To document such an exemption, the subsequent wholesaling and retailing dealer must keep, as a dealer business record, a notarized affidavit from either the bona fide retail purchaser/lessee, or in the case of an imported vehicle, a notarized affidavit from the importer of the vehicle. That affidavit will be prescribed by the department and must confirm that the retail purchaser/lessee was a bona fide retail purchaser/lessee.

(17) A "bona fide retail purchaser/lessee" is one who purchases or leases a vehicle for the purpose of using it, rather than for the purposes of resale or lease.

(18) The "principal" of a business as used herein means a true party of interest, including:

(a) The proprietor of a sole proprietorship;

(b) A partner of a partnership or a limited liability partnership;

(c) An officer of a corporation;

(d) A member or manager of a limited liability company;

(e) A spouse, if he or she is a true party of interest;

(f) In addition, any owner of ten percent or more of the assets who is not already listed.

[Statutory Authority: RCW 46.70.160, 07-03-119, § 308-66-110, filed 1/22/07, effective 2/22/07; 04-16-090, § 308-66-110, filed 8/3/04, effective 9/3/04; 02-12-062, § 308-66-110, filed 5/31/02, effective 7/1/02; 98-20-039, § 308-66-110, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-110,

filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-01-016 (Order DLR 115), § 308-66-110, filed 12/9/86; Order MV 170, § 308-66-110, filed 7/16/73; Order 70-08-04, § 308-66-110, filed 8/6/70; Order 69-1, § 308-66-110, filed 8/28/69; Order 2, § 308-66-110, filed 1/29/68.]

WAC 308-66-120 Dealer's license application. What information is needed to apply for a vehicle dealer license? (1) Each application shall contain in addition to the information required by RCW 46.70.041:

(a) The names and residential addresses of all owners of ten percent or more of the assets of the business;

(b) The name and address of the principal place of business;

(c) The names and addresses of each and every sub-agency, if any;

(d) A current balance sheet of assets, liabilities and owner's equity which shall have been prepared within sixty days of its submission, including proof of the assets;

(e) A statement of whether or not the applicant, including any sole proprietor, partner, member, officer, or director of the firm, was the holder of a license issued pursuant to chapter 46.70 RCW which was revoked for cause and never reissued by the department, or suspended for cause and the terms of the suspension have not been fulfilled or assessed a monetary penalty that has not been paid;

(f) A list of all dealerships previously operated by each person named on the application and with which each person presently or was formerly connected or employed.

(2) An applicant must appear for a personal interview if requested by the department.

(3) The department may require a credit report for each person named on each application for a dealer's license.

(4) An applicant must provide as evidence of leasehold or ownership interest of business location either:

(a) A copy of the rental or lease agreement between the applicant and landowner showing the business location by commonly known address, or

(b) A copy of the county assessor's record showing ownership of the business location, the applicant's name and the commonly known address.

(5) An applicant must provide a bank reference for verifying financial condition consisting of:

(a) The name of the applicant's bank, a person to contact at that bank concerning the applicant's financial condition, or

(b) A letter of credit current within the last sixty days, or

(c) A flooring agreement, if with a financial institution, or

(d) A line of credit with a financial institution.

(6) The department may require an applicant to provide evidence that the business location conforms to all zoning and land use ordinances.

(7) A corporate applicant must provide the corporation number and corporation name issued by the secretary of state's office authorizing the company to do business within this state.

(8) The business name and address on the license application and all required supporting documents must be the same.

(9) The applicant must provide a certification of completion in the dealer education program:

(a) At least one principal of each company applying for an original vehicle dealer license must receive certification in the dealer education program required by RCW 46.70.041 (1)(l).

(b) The department encourages as many principals of each company as possible to obtain such certification.

(c) For annual dealer license renewals, either a company principal or a managing employee may complete the continuing education program. The continuing education certificate will indicate that the dealership has fulfilled the requirement.

(d) Certifications for either original or renewal applications will be valid for twelve months.

(10) Any service agreement required by RCW 46.70.041 must be on file with the department. An acquisition or loss of a service agreement must be reported to the department in writing within ten days.

[Statutory Authority: RCW 46.70.160, 07-03-119, § 308-66-120, filed 1/22/07, effective 2/22/07; 04-16-090, § 308-66-120, filed 8/3/04, effective 9/3/04; 02-12-062, § 308-66-120, filed 5/31/02, effective 7/1/02; 98-20-039, § 308-66-120, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-120, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.041, 91-20-057, § 308-66-120, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-01-016 (Order DLR 115), § 308-66-120, filed 12/9/86; Order MV 170, § 308-66-120, filed 7/16/73; Order 70-08-04, § 308-66-120, filed 8/6/70; Order 69-1, § 308-66-120, filed 8/28/69; Order 2, § 308-66-120, filed 1/29/68.]

WAC 308-66-135 Expiration of dealer and manufacturer licenses. Motor vehicle dealer license plates and vehicle manufacturer license plates shall expire on the same date as the expiration of the license.

[Statutory Authority: RCW 46.70.160 and 46.70.085, 91-20-057, § 308-66-135, filed 9/24/91, effective 10/25/91. Statutory Authority: 1985 c 109 §§ 2, 4, 6 and 8, RCW 46.80.140, 46.70.080 [46.79.080], 46.70.160, 46.76.070 and 46.16.225, 86-08-028 (Order DLR-091), § 308-66-135, filed 3/26/86.]

WAC 308-66-140 Place of business and places of business. Which business names and locations do I need to license?

(1) A dealer must inform the department in writing of each and every:

- (a) Name under which the dealer does business, and
- (b) Location at which the dealer does business.

The dealer must inform the department in writing within ten days of any addition, deletion or change in the name or location. The dealer must apply for a temporary subagency license at least ten days prior to the sales event that requires that license. There must be at least one day with no sales activity between any two ten day temporary permit periods.

(2) A dealer shall designate one name and one location as the principal name and principal place of business.

(a) All other names under which the dealer does business shall be designated and licensed as subagencies of that dealership;

(b) All other locations that are physically and geographically separated from the principal place of business shall be designated and licensed as subagencies of that dealership;

(c) If a dealer is required to obtain a subagency license under (2)(b) of this section, the dealer shall not be required to obtain an additional subagency license under (2)(a) of this

(11/29/12)

section, unless the dealer does business under more than one name at that subagency location;

(d) The department will not require a subagency license for a name solely due to the use of a ".com" or other URL extension in an internet address; or because a dealership uses a derivative of its licensed "doing business as" name for its internet address. The web site must clearly display the licensed "doing business as" name.

(3) If the dealer ceases to maintain "an established place of business" at that subagency location, the director shall suspend, revoke and/or refuse to renew a subagency license of a dealership.

(4) All temporary subagencies must be covered by the bond of the dealer's principal place of business.

(5) A vehicle dealer, whether franchised or nonfranchised, that is unable to locate the dealer's used vehicle sales facilities adjacent to or at the established place of business need not obtain and hold a subagency license if:

(a) The vehicle sales lot is contained within the same city block, or

(b) Is directly across the street, or

(c) Is within sight, and

(d) Its location is zoned properly, and

(e) The dealer bond covers the sales lot.

(6) If the sales lot referred to in section 5 is in sight of the principal place of business, no sign is required at that sales lot.

(7) The department may require that a dealer provide evidence that each place of business conforms to all zoning and land use ordinances.

(8) Each and every subagency license of a dealership shall automatically be deemed canceled upon the termination, for whatever reason, of the principal license of that dealership.

(9) No license shall be issued to any applicant for a vehicle dealer or vehicle manufacturer license under a name that is the same as that of any dealer or manufacturer holding a current license issued pursuant to chapter 46.70 RCW.

(10) The sign at the certified location and the business telephone listing must reflect the "doing business as" (dba) name.

[Statutory Authority: RCW 46.70.160, 10-06-058, § 308-66-140, filed 2/25/10, effective 3/28/10; 04-16-090, § 308-66-140, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-140, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160 and 46.70.023, 91-20-057, § 308-66-140, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-01-016 (Order DLR 115), § 308-66-140, filed 12/9/86; Order MV 170, § 308-66-140, filed 7/16/73; Order 69-1, § 308-66-140, filed 8/28/69; Order 2, § 308-66-140, filed 1/29/68.]

WAC 308-66-145 Established place of business—Waiver procedure. How may I obtain a place of business waiver?

(1) An applicant for a vehicle dealer license, or a licensee, who requests a waiver of any established place of business requirement(s) must submit the following to the department:

(a) All applicable documents and fees in RCW 46.70.041, 46.70.061, 46.70.070, WAC 308-66-120, and 308-66-140.

(b) A written request for the waiver, in the form of either a letter or a request completed on the department's prescribed form, which requires the following minimum information:

(i) Specific nature or type of activity the applicant intends to conduct,

(ii) Specific element(s) of the established place of business requirements requested to be waived,

(iii) Detailed statement which identifies the unique circumstances necessitating the request for waiver, and,

(iv) Any other information the department may require.

(2) Upon receipt by the department of all the required information, the director or the director's designee will review the request for waiver of any established place of business requirement(s) and issue a final determination in writing.

(3) A waiver granted under section (2) will remain in effect only as long as the unique circumstance(s) under which the waiver was originally granted have not changed or until the director terminates the waiver.

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-145, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-145, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-145, filed 12/9/86.]

WAC 308-66-150 Warranty practices. (1) It shall not be considered unlawful under the provisions of RCW 46.70.180 (14)(f) for a vehicle manufacturer to provide under the terms of any warranty that a purchaser of a vehicle must make warranty claims against only the manufacturer of an integral part of a vehicle if the manufacturer of that integral part has assumed a direct warranty obligation thereon to the purchaser and does, in fact, provide facilities or agencies within the states of Washington, Oregon or Idaho to discharge such warranty obligation.

(2) No manufacturer need make reimbursement under RCW 46.70.101 (2)(j) except to dealers selling its product at retail or to the dealers holding units purchased from the manufacturer for resale at retail: Provided, however, That if the warranty agreement between the dealer and the manufacturer requires prior approval by the manufacturer, such approval must be given within a reasonable time and in no event later than ten days, except in emergency situations where the life, health, or safety of the occupant or owner requires immediate action.

[Statutory Authority: RCW 46.70.160. 96-19-025, § 308-66-150, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 - 46.70.180. 90-20-086, § 308-66-150, filed 9/28/90, effective 10/29/90; Order MV-446, § 308-66-150, filed 9/16/77; Order MV 170, § 308-66-150, filed 7/16/73; Order 70-08-04, § 308-66-150, filed 8/6/70; Order 69-1, § 308-66-150, filed 8/28/69; Order 2, § 308-66-150, filed 1/29/68.]

WAC 308-66-152 Unlawful practices. (1) Examples of unlawful acts or practices, as defined by RCW 46.70.180 (1)(a), include, but are not limited to representations such as "no down payment," "a dollar down," "five dollars down," "take-over payments," "no cash out of your pocket," "no cash needed," and others of similar nature if either secondary financing or initial payment of any amount, including factory rebates in excess of that represented, is required from the purchaser. A dealer's plan to have all or a portion of the lease or selling price financed by a third party does not relieve the dealer of an obligation to refrain from this prohibited type of

advertising. When any of these representations are made a payment disclosure shall be made as contained in subsection (6) of this section.

(2) Examples of unlawful acts or practices as defined by RCW 46.70.180 (1)(b), include, but are not limited to representations such as "one hundred percent financing" if the terms of the purchase or lease involve more than one security agreement and payments to more than one financing institution. When collateral in addition to the vehicle is required, it must be listed on the security agreement containing the vehicle's description, not on a separate agreement.

(3) It shall be considered false, deceptive or misleading, and thereby unlawful, to advertise with words, phrases, or initials which are not clear and conspicuous and easily comprehended by persons other than those closely allied with the vehicle industry.

(a) Clear and conspicuous within an advertisement shall mean:

(i) In the case of a television advertisement, the information required to be disclosed shall be completely disclosed audibly, visually, or a combination thereof.

(A) If made visually, shall be made in a type size sufficiently large to be read with reasonable ease; shall appear on the television screen for at least seven seconds; shall be in print type of a color or shade that contrasts readily with the background; shall not be obscured by other words or images appearing on the television screen; and

(B) If made audibly, shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average television listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(ii) In the case of a radio advertisement, the information required to be disclosed shall be spoken with sufficient deliberateness, clarity, and volume so as to be understood by the average radio listener; shall not be obscured by sounds which interfere with or distract from the disclosures being made.

(iii) In the case of a printed advertisement, the information required to be disclosed shall be made in a type size which shall be sufficiently large to be read with reasonable ease and shall be made in relatively close proximity to each of the terms which require that the disclosures be made; disclosures shall be made in such color and contrast so as not to be obscured by other words or pictures appearing in the advertisement.

(b) Examples of words, phrases, or initials which are not easily comprehended by persons other than those closely allied with the vehicle industry, and that may not be used without explaining their meaning in the same advertisement, include but are not limited to: Executive; capitalized cost reduction, o.a.c., c.f., f.o.b. The words annual percentage rate may be abbreviated to read A.P.R. or apr.

(4) Examples of false, deceptive or misleading, and thereby unlawful statements or representations within the meaning of RCW 46.70.180(1) include, but are not limited to:

(a) Advertising a used vehicle for sale that is not available at the time the advertisement is placed;

(b) Advertising a new vehicle as available for immediate delivery if it is available only on order;

(c) Advertising any offer in connection with the sale of a vehicle or model or type of vehicle without disclosing any material limitations, including, but not limited to, the time limit, or that there is no time limit on the offer;

(d) Advertising using a picture:

(i) Of a new vehicle which does not substantially show the same vehicle offered for sale; or

(ii) Of a used vehicle which is not the same vehicle offered for sale;

(e) Causing an advertisement to be placed by a dealer or dealer representative that does not identify the dealer by its complete business name, or by the word "dealer" or abbreviation "DLR";

(f) Incorporating in the dealer's name any term or designation which would have a tendency to mislead others as to the true nature of the business, such as the use of "wholesale," when a dealer's business is substantially retail, or "discount" when the price and policy of a dealer does not provide substantial discounts;

(g) Advertising a vehicle manufactured fewer than two years prior to the date of the advertisement without designating the vehicle as "used," "demo," or "demonstrator." For purposes of adequate disclosure, the appropriate quoted term must be employed. Other descriptive words, such as "executive," "lease," or "rental" may be used in conjunction therewith, but not so as to create ambiguity as to whether the vehicle is new, used, or a demonstrator.

(h) Advertising a "rebuilt vehicle" for sale with knowledge as defined in RCW 46.70.101 (1)(b)(xi) that the vehicle is rebuilt, without clearly and conspicuously disclosing "rebuilt" in the advertisement;

(i) Advertising a specific price for a specific vehicle or model or type of vehicle without designating the number of vehicles available at that price, and;

(i) Without clearly identifying the vehicles available by complete vehicle identification number, license plate number; or

(ii) Without clearly and conspicuously stating in the advertisement that such vehicle identification or license plate number for each advertised vehicle is available from the dealer upon request, and requiring that the dealer using this method of identifying vehicles keep the media advertising copy along with the vehicle identification number or license plate number of each advertised vehicle offered for a specific price. Such records shall be retained for one year following the advertisement. Dealers shall also date and post a written copy of the advertisement text and list of vehicle identification numbers or license plate numbers in a conspicuous public area at their place of business for the duration of the vehicle's availability at the advertised price: Provided, however, That a dealer need not designate the number of vehicles available or identify the vehicles available or state in the advertisement that the identification of advertised vehicles is available upon request if, in fact, an unlimited supply of such vehicles are available for immediate delivery;

(j) Selling a particular vehicle at a higher price than advertised, regardless of trade-in allowance;

(k) Adding charges, costs, or items to the advertised price, except those allowed by statute, other than the selling price of additional equipment ordered by the purchaser, sales tax, and license fees. "Additional equipment ordered by the

purchaser" shall not include options already installed on the vehicle at the time of advertising;

(l) Expressing "advertised price" as a combination of:

(i) Dollar figures and words unless all component figures and the total dollar figure is expressed; or

(ii) Dollar figures and dollar figures unless all component figures and the total dollar figure is expressed;

(m) Advertising that a new vehicle or model or type of vehicle will be leased or sold for a certain amount above or below invoice or cost without:

(i) Disclosing the actual dollar amount being referred to as "invoice";

(ii) Stating the final, total price for each vehicle, which may exclude sales taxes and license fees; and

(iii) Computing invoice as the actual cost to the dealer to get each vehicle from the manufacturer.

In computing "invoice" the dealer may include the actual cost of transportation of the vehicle from the manufacturer to the dealer, but must exclude dealer holdbacks, other manufacturer incentives, optional advertising fees, dealer overhead expenses, and other similar expenses;

(n) Advertising that a new or used vehicle is reduced in price from a former price, or that the advertised price is a percentage of dollar amount savings from a former price, or words to that effect, unless the seller actually recently advertised or has records showing that vehicle has been offered for sale at the former price;

(o) Advertising or offering:

(i) Any rebate that is not an authorized manufacturer's rebate paid directly to the consumer, which the consumer may apply to the purchase; and

(ii) Any manufacturer's rebate for which the manufacturer requires any financial participation by the dealer, without also clearly and conspicuously stating the following disclosure: "Dealer participation in this rebate program may increase vehicle price before rebate";

(p) Advertising that "any written price quote will be beaten," "any deal will be accepted," or that a dollar amount is guaranteed on any "push, pull or drag," trade-in, or words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(q) Advertising a vehicle or model or type of vehicle as being available at "lowest cost," "best deal" or other words to that effect unless the dealer can clearly show through the records of the dealership that such is the case;

(r) Advertising an interest rate that is adjustable without clearly and conspicuously disclosing that the interest rate is adjustable;

(s) Advertising a vehicle or model or type of vehicle for sale at a financing rate which has been bought down by the dealer, without disclosing the actual annual percentage rate.

(5) No advertisement to aid, promote, or assist directly or indirectly any extension of credit may state:

(a) That a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange credit amounts or installments for that period and in that amount; or

(b) That no down payment or that a specified down payment will be accepted in connection with any extension of credit unless the creditor usually and customarily accepts or will accept down payment in that amount.

(6) No advertisement to aid, promote, or assist directly or indirectly any credit sale of a vehicle shall state the amount or percentage of the down payment required, or that no down payment is required, the amount of any payment or the number of payments or the period of repayment, the amount of any finance charge or that there is no charge for credit, unless it states clearly and conspicuously all of the following terms:

(a) The cash price or the amount of the loan as applicable;

(b) The amount or percentage of the down payment required, or that no down payment is required, as applicable;

(c) The number, amount, and frequency of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate;

(e) The deferred payment price or the sum of the payments as applicable;

(f) The specific model or type of vehicle(s) to which the advertised offer applies; and

(g) Any other conditions material to the advertised offer.

(7) Any advertisement to aid, promote, or assist directly or indirectly a consumer lease must state clearly that the advertisement offers a lease rather than a vehicle sale.

(8) No advertisement to aid, promote, or assist directly or indirectly any consumer lease of a vehicle shall state the amount of any monthly payment, or state a capitalized cost reduction or other payment required prior to or at consummation/delivery, unless it also states the following terms:

(a) That the transaction advertised is a lease;

(b) The total amount due prior to or at consummation/delivery;

(c) The number, amount, and due dates or period of scheduled payments under the lease;

(d) A statement of whether or not a security deposit is required; and

(e) A disclosure of the lessee's liability at the end of an open-end lease.

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-152, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-152, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.180 and 46.70.160. 91-03-019, § 308-66-152, filed 1/7/91, effective 2/7/91. Statutory Authority: RCW 46.70.160 - 46.70.180. 90-20-086, § 308-66-152, filed 9/28/90, effective 10/29/90.]

WAC 308-66-155 Consignment. (1) Contract. How must I handle a consignment transaction?

(a) It shall be considered an unlawful practice within the meaning of RCW 46.70.180(2) for a vehicle dealer to accept any vehicle on consignment without first reducing the terms of the consignment to writing.

(b) *All consignment contracts must include:*

(i) The names of the parties to the contract including the identity of the legal owner of the consigned vehicle.

(ii) The consignor's statement that guarantees to deliver the title to the dealer-consignee upon sale of the vehicle which identifies the location of the title and states the unpaid balance owing on the vehicle, if any.

(iii) The date of the consignment agreement.

(iv) The specific effective duration of the contract.

(v) The agreed upon amount which will be paid to the consignor.

(vi) The description of the consigned vehicle, by make, model, vehicle identification number, and license number.

(vii) The signatures of the parties to the contract.

(viii) If no amount has been specified in (v) above, then the minimum retail price and the commission, fee, or compensation to which the dealer-consignee will be entitled upon the sale of the consigned vehicle.

(2) In the event the dealer-consignee and the consignor shall deem it appropriate to vary the terms of the written contract, the dealer-consignee shall obtain written authorization from the consignor prior to the sale of the subject vehicle.

(3) Requirements for selling consigned vehicles.

(a) All funds received, including deposits or payments in full or proceeds from the sale of trade-ins, must be placed in a trust account as required under RCW 46.70.180(9), and said funds must remain in that trust account until the consignor's and any lienholder interests have been fully satisfied. It shall be considered an unlawful practice for a vehicle dealer or salesperson to commingle funds received on a consigned vehicle with the assets of the dealer and/or the salesperson until all terms of the agreement have been completed.

(b) The amount due a consignor and any lienholder from the sale of the consigned vehicle must be paid by the consignee within ten days following delivery of the vehicle to the purchaser.

(c) At the same time payment is made pursuant to (b) of this subsection, the dealer must give to the consignor a copy of the purchase order used in the sale.

(4) Consignee's duty to transfer title.

(a) The sale of consigned vehicles imposes upon the consignee-dealer the same duty under RCW 46.70.122 to promptly transfer title into the name of the purchaser as in any other sale.

(b) Prior to accepting a vehicle for consignment and offering it for sale, it shall be the duty of the consignee to verify or confirm the title location. Failure to do so shall be considered an unlawful and deceptive practice under RCW 46.70.180(2).

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-155, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-155, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-155, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.028. 91-20-057, § 308-66-155, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-155, filed 12/9/86; Order MV-352, § 308-66-155, filed 3/4/76.]

WAC 308-66-157 Listing. How do I handle a manufactured home listing?

(1) Dealer responsibilities.

(a) The listing dealer shall be responsible for negotiating the agreement between seller and purchaser as follows:

(b) All written offers shall be presented to the seller for acceptance or refusal. A copy of the agreement shall be delivered to the purchaser immediately following the purchaser's signing.

(c) A copy of the offer to purchase shall be delivered to the seller immediately following seller's signing and acceptance of purchaser's offer.

(d) A copy of the agreement to purchase bearing the signature of the seller(s) shall be delivered to the purchaser as proof that the purchaser's offer was accepted.

(e) A legible copy of the agreement to purchase shall be retained in the listing dealer's files.

(f) A copy of the agreement between purchaser and dealer to disburse any funds from the trust account to pay liens against the used mobile/manufactured home shall be retained in the dealer's files.

(2) At the time the sale is closed, the listing dealer may pay outstanding liens out of the trust account prior to paying the sale proceeds to the seller.

(3) The sale of listed vehicles imposes upon the listing dealer the same duty under RCW 46.70.122 to promptly transfer title into the name of the retail purchaser, as in any other sale.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-157, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-157, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-016 (Order DLR 115), § 308-66-157, filed 12/9/86.]

WAC 308-66-160 Dealer's and manufacturer's license plates. (1) When dealer's plates are used on any vehicle being demonstrated to a prospective customer, it is not necessary that the dealer or a member of his firm accompany the prospective customer except as provided in RCW 46.70.090 (7)(c). Prospective customers, when not accompanied by a dealer or member of his firm, must be issued a demonstration permit by the dealer authorizing them to operate the vehicle for a period not to exceed seventy-two hours for the purpose of demonstration and possible purchase.

(2) When a dealer receives a vehicle bearing foreign license plates, such plates must be covered by the dealer's plates while that vehicle is being demonstrated. Upon the sale of the vehicle, the foreign plates shall be removed and destroyed by the dealer prior to the delivery of the vehicle. When foreign-plated vehicles are sold to residents of a state whose plate is so displayed on the vehicle and the purchaser returns the vehicle immediately to his home state for use there and not in Washington, the dealer may deliver the vehicle with foreign plates attached if either one of two conditions is also met. The conditions are:

(a) The purchaser must sign a nonresident affidavit to apply to their home state's vehicle licensing authority to register the vehicle in their own name, or

(b) The purchaser must have obtained a trip permit to move the vehicle from the dealer's place of business to the purchaser's own state.

(3) A dealer, corporate officer, member of a limited liability company; or spouse of the dealer, corporate officer, or member of a limited liability company; or an employee of a dealer must carry a vehicle dealer identification card when operating any vehicle bearing dealer plates.

(4) Dealer plates may not be used on any vehicle belonging to a member of the dealer's family.

(5) Dealer plates may not be used on any vehicle owned by the dealer if such vehicle is used exclusively by members of the dealer's family.

(6) Vehicles bearing dealer's plates may not be loaned to the dealer's service customers.

(7) Dealers are required to provide accurate records reflecting the use of dealer plates.

(8) Pursuant to RCW 46.70.090, testing vehicles for repair is limited to testing for a preexisting, identifiable prob-

lem known to the vehicle dealer or manufacturer before the testing is to begin. In addition, vehicle manufacturers may test vehicles for purposes of product evaluation/performance and problem identification, as long as loads are within the legal limits, no commercial hauling is involved, and a company employee with identification is driving the vehicle.

[Statutory Authority: RCW 46.70.160, 05-23-088, § 308-66-160, filed 11/16/05, effective 12/17/05; 04-16-090, § 308-66-160, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-160, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-160, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.090, 91-20-057, § 308-66-160, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160, 86-21-025 (Order DLR-114), § 308-66-160, filed 10/8/86; Order MV 170, § 308-66-160, filed 7/16/73; Order 70-08-04, § 308-66-160, filed 8/6/70; Order 69-1, § 308-66-160, filed 8/28/69; Order 2, § 308-66-160, filed 1/29/68.]

WAC 308-66-165 Vehicle sales transactions. How do I report vehicle sales for purposes of renewing my dealer license? To report sales for purposes of license renewal as required by RCW 46.70.083, the dealer will report the number of vehicles leased and sold at both retail and wholesale during the twelve-month period ending sixty days prior to the expiration of the license, for each license classification held by the dealer.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-165, filed 8/3/04, effective 9/3/04. Statutory Authority: RCW 46.70.160 and 1991 c 140, 91-20-057, § 308-66-165, filed 9/24/91, effective 10/25/91.]

WAC 308-66-170 Denial, suspension or revocation of license. (1) When the license of a vehicle dealer has been suspended or revoked, the department shall post a closure notice at or near the principal entry to the place of business. Such notice shall include a statement that the dealership is closed as to the sale of vehicles because of the suspension or revocation of a license. In case of a suspension, the duration of the suspension shall be stated on the notice. A dealer shall not remove any closure notice without permission from an authorized representative of the director.

(2) Practices inimical to the health and safety of the citizens of the state of Washington pursuant to RCW 46.70.101 (1)(b)(viii) and (2)(k) shall include, but not be limited to, failure to comply with the following federal and state standards, as presently constituted and as hereafter amended, amplified or revised, pertaining to the construction and safety of vehicles:

(a) "Federal motor vehicle safety standards," 49 Code of Federal Regulations, part 571;

(b) "Control of air pollution from new motor vehicles and new motor vehicle engines," 40 Code of Federal Regulations, part 85;

(c) "Vehicle lighting and other equipment," chapter 46.37 RCW;

(d) Rules and regulations adopted by the Washington state patrol pursuant to RCW 46.37.005, Title 204 WAC;

(e) "Mobile/manufactured homes, commercial coaches, park trailers, and recreational vehicles," chapter 296-150B WAC;

(f) Housing and Community Development Act of 1974, Public Law 93-383, Title VI Mobile home construction and safety standards, §§ 603, 604, 610, 615, 616, 617.

(3) The department may deny a temporary subagency license if it is not applied for at least ten days prior to the sales event that requires the license.

[Statutory Authority: RCW 46.70.160, 10-06-058, § 308-66-170, filed 2/25/10, effective 3/28/10; 98-20-039, § 308-66-170, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-170, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.101, 91-20-057, § 308-66-170, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-01-016 (Order DLR 115), § 308-66-170, filed 12/9/86; Order MV-446, § 308-66-170, filed 9/16/77; Order MV 170, § 308-66-170, filed 7/16/73; Order 2, § 308-66-170, filed 1/29/68.]

WAC 308-66-175 Buyer's agent—Standard disclosures. Must a buyer's agent disclose their activities? The written agreement between a buyer's agent and its customer shall contain precisely the following disclosure language in a single paragraph on the first page of the agreement, in a type size sufficiently large to be read with reasonable ease:

NOTICE to customers concerning the nature and scope of BUYER'S AGENT activity. A licensed bonded vehicle dealer may act as a buyer's agent to arrange for you to purchase a new vehicle.

1. Your agreement with the buyer's agent must:

- Be in writing.
- Set forth the terms of the agreement.
- Disclose total fees or other compensation to be received from you.
- State whether or not any portion of the fee is refundable.

2. While arranging for you to purchase your new vehicle the buyer's agent must NOT:

- Receive or pay any vehicle purchase moneys.
- Sign any vehicle purchase order, contract, odometer statement or title document.
- Have the name of the buyer's agent appear on the purchase order, sales contract or title.
- Sign any other document relating to the purchase, sale or transfer of the new vehicle.
- Use a power of attorney (POA) to do any of the above prohibited acts. However, the buyer's agent may use a POA to deliver the license plates to the customer.

3. The buyer's agent must NOT:

- Pay to or receive from a dealer any purchase moneys, fees, gratuities or rewards.
- Claim or state that the buyer's agent offers, obtains or guarantees the lowest price.
- Arrange for a new vehicle through an out-of-state dealer without disclosing to the customer in writing that the vehicle will not have Washington state lemon law coverage.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-175, filed 8/3/04, effective 9/3/04. Statutory Authority: RCW 46.70.180(13) as amended in 1995 by SHB 2179, 96-24-041, § 308-66-175, filed 11/27/96, effective 12/28/96.]

WAC 308-66-177 Trust account. The deposit trust account required by RCW 46.70.180(9) must be established and maintained within Washington state.

[Statutory Authority: RCW 46.70.160, 07-03-119, § 308-66-177, filed 1/22/07, effective 2/22/07.]

[Ch. 308-66 WAC—p. 8]

WAC 308-66-180 Record of transactions. (1) The record of the purchase and sale of a vehicle maintained by a dealer must include, but not be limited to:

(a) A description of the vehicle, which shall include those items of description required on the Washington application for title, and in the case of a retail sale requiring a title transfer, a copy of the computer-generated title application processed by a license agent showing fees paid to the state;

(b) The Washington license plate number assigned to the vehicle upon transfer;

(c) The required odometer statement disclosure form which shall conform to 49 Code of Federal Regulations, part 580, and in WAC 308-56A-640 or if a licensed vehicle dealer auction company conducting wholesale consignment sales, the odometer disclosure record for such sales as required in 49 Code of Federal Regulations, part 580.9 and in WAC 308-56A-670;

(d) All purchase orders must be dated and include the business name of the dealer and a description of any trade-in vehicle by year, make and vehicle identification number.

(2) A record of the purchase and sale of a vehicle must be maintained on all transactions, whether at retail or wholesale; and must be available for inspection and copying by representatives of the department of licensing during normal business hours.

(3) Any such records kept electronically must be made available in hard copy upon request of a representative of the department of licensing.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-180, filed 8/3/04, effective 9/3/04; 96-19-025, § 308-66-180, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160, 90-24-054, § 308-66-180, filed 12/3/90, effective 1/3/91. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-01-016 (Order DLR 115), § 308-66-180, filed 12/9/86; Order MV 170, § 308-66-180, filed 7/16/73; Order 2, § 308-66-180, filed 1/29/68.]

WAC 308-66-182 Records—Buyer's agents. Dealers shall keep for a period of five years the following records concerning their buyer's agent activities:

(1) A copy of the required written agreement with the customer.

(2) A record of any fees received from the customer.

[Statutory Authority: RCW 46.70.180(13) as amended in 1995 by SHB 2179, 96-24-041, § 308-66-182, filed 11/27/96, effective 12/28/96.]

WAC 308-66-190 Transfer of certificate of title by dealer. How is the transfer to be done? (1) When a vehicle displaying current Washington plates is sold, leased or otherwise disposed of by a dealer, the dealer must make an application for a certificate of title in the purchaser's or lessee's name within forty-five calendar days commencing with the sale, lease or disposal of the vehicle. The date on which the selling dealer physically delivers the vehicle to the customer/purchaser/lessee must commence the forty-five day interval in which the selling or leasing dealer must make an application for a certificate of title in the purchaser's or lessee's name. Under the following conditions a dealer may be granted an additional interval, not to exceed forty-five days in which to apply for title in the customer's name:

(a) The lien holder fails to deliver the vehicle title to the dealer within the time period for title transfer; and

(b) The dealer has satisfied the lien; and

(11/29/12)

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied; or

(d) The director may excuse any situations in which applications are delayed for reasons beyond the control of the dealer.

(2) The dealer must in every case sign or type their name on the dealer's report of sale on the title application accompanying the transfer. If an authorized agent signs for the dealer, they must give their title.

(3) The dealer shall provide a vehicle odometer disclosure statement with the title application as required by RCW 46.12.124.

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-190, filed 8/3/04, effective 9/3/04. Statutory Authority: RCW 46.70.160 and 46.70.110. 99-02-049, § 308-66-190, filed 1/5/99, effective 2/5/99. Statutory Authority: RCW 46.70.160. 96-19-025, § 308-66-190, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.124. 94-21-055, § 308-66-190, filed 10/13/94, effective 11/13/94. Statutory Authority: RCW 46.70.160, 46.12.120 and [46.12].124. 91-20-057, § 308-66-190, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 46.70.160. 90-24-054, § 308-66-190, filed 12/3/90, effective 1/3/91; 90-10-013, § 308-66-190, filed 4/20/90, effective 5/21/90; Order MV 170, § 308-66-190, filed 7/16/73; Order 2, § 308-66-190, filed 1/29/68.]

WAC 308-66-195 Possession of certificates of ownership. How do I possess such documents? (1) A vehicle dealer must have possession of a separate certificate of ownership for each used vehicle kept in the dealer's inventory unless the certificate of ownership is in the possession of the person holding a security interest in the dealer's inventory. Possession is accomplished by the dealer obtaining either:

(a) A separate certificate of ownership in the name of the dealer, or the dealer's immediate vendor, properly assigned; or

(b) Evidence that the dealer owns the vehicle, such as a bill of sale or purchase order, together with evidence that the dealer has satisfied or paid off any lienholder on the vehicle.

(2) If there is a lienholder on any vehicle acquired by the dealer, the dealer must obtain possession of the title by paying off any balance due to the lienholder no later than the close of the second business day following the date of acquisition of the vehicle by the dealer. For purposes of this section, if a dealer takes possession of a vehicle as a trade-in, a dealer acquires that trade-in vehicle when the dealer takes possession of the vehicle and unconditionally sells another vehicle for which the trade-in vehicle is part of the price in accordance with RCW 46.70.180(4).

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-195, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-195, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160 and 46.70.124. 94-21-055, § 308-66-195, filed 10/13/94, effective 11/13/94; Order MV 170, § 308-66-195, filed 7/16/73.]

WAC 308-66-200 Assignment of vehicle to another dealer. How is the assignment to be done? When a dealer sells a vehicle to a second dealer, the first dealer must complete and sign the assignment, either on the secure title, on an odometer extension form or on an equivalent document if the vehicle is exempt from requiring an odometer disclosure. The retailing dealer shall complete the dealer's report of sale when

(11/29/12)

applying for certificate of ownership into the name of the purchaser.

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-200, filed 8/3/04, effective 9/3/04; 96-19-025, § 308-66-200, filed 9/9/96, effective 10/10/96; Order MV 170, § 308-66-200, filed 7/16/73; Order 2, § 308-66-200, filed 1/29/68.]

WAC 308-66-210 Statement of change in business structure, ownership interest or control. When do I report such a change? (1) With the exception of a corporation any person licensed as a dealer under chapter 46.70 RCW must, within ten days following any change in its business structure, file a new application and pay original licensing fees under the new entity.

(2) In addition, any new principals including, but not limited to, new corporate officers, directors, managing partners, members or trustees, must, within ten days of assuming such function, file an application including fingerprint cards and legal and financial history.

(3) Any person licensed as a vehicle manufacturer pursuant to chapter 46.70 RCW must inform the department in writing within ten days of the change to:

(a) The business structure of the licensee company and must file a new application and pay original licensing fees under the new entity;

(b) The mailing address of the licensee;

(c) The name and address of employees or agents designated pursuant to RCW 46.70.041 and 46.70.101 to provide service or repairs to vehicles located within the state of Washington. However, if the licensee requires warranty service to be performed by all of its dealers pursuant to current service agreements on file with the department, it need not advise the department of changes in such employees or agents.

(4) Any and all changes affecting the applicability of a surety bond shall be reflected by appropriate endorsement to such bond.

[Statutory Authority: RCW 46.70.160. 07-03-119, § 308-66-210, filed 1/22/07, effective 2/22/07; 04-16-090, § 308-66-210, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-210, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-210, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1. 87-01-016 (Order DLR 115), § 308-66-210, filed 12/9/86; Order MV 170, § 308-66-210, filed 7/16/73; Order 70-08-04, § 308-66-210, filed 8/6/70; Order 69-1, § 308-66-210, filed 8/28/69; Order 2, § 308-66-210, filed 1/29/68.]

WAC 308-66-211 Termination of business. What if I terminate the business? A dealer or a manufacturer who terminates the business shall return the license and special license plates to the department, for cancellation, within ten business days of such termination.

[Statutory Authority: RCW 46.70.160. 04-16-090, § 308-66-211, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-211, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-211, filed 9/9/96, effective 10/10/96; Order MV 170, § 308-66-211, filed 7/16/73; Order 70-08-04, § 308-66-211, filed 8/6/70.]

WAC 308-66-212 Sale, transfer or other disposition of noncorporate licensee. When does such a transfer require a new license? Upon the sale, transfer or other disposition of fifty-one percent ownership interest in a noncorporate licensee, a new application for the appropriate license

[Ch. 308-66 WAC—p. 9]

is required and the fee will be the same as for an original application.

The special license plates issued to the original licensee(s) may be assigned to the new license upon request.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-212, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-212, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-212, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.041, 91-20-057, § 308-66-212, filed 9/24/91, effective 10/25/91; Order MV 170, § 308-66-212, filed 7/16/73; Order 70-08-04, § 308-66-212, filed 8/6/70.]

WAC 308-66-214 Incorporation of licensee while licensed. What if I incorporate while licensed? A licensee which incorporates or forms a limited liability company while licensed shall file a new application for the appropriate license and the fee will be the same as for an original application.

The special license plates issued to the original licensee(s) may be assigned to the new licensee upon request.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-214, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-214, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-214, filed 9/9/96, effective 10/10/96. Statutory Authority: RCW 46.70.160 and 46.70.041, 91-20-057, § 308-66-214, filed 9/24/91, effective 10/25/91; Order MV 170, § 308-66-214, filed 7/16/73; Order 70-08-04, § 308-66-214, filed 8/6/70.]

WAC 308-66-220 Display of vehicles by combination wrecker-dealer. A dealer who is also an auto wrecker shall keep vehicles held for resale physically separated from vehicles which have been or are to be dismantled for parts. Vehicles not in running condition are to be stored within the segregated area of the fenced wrecking area per WAC 308-63-070(8).

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-220, filed 8/3/04, effective 9/3/04; Order 70-08-04, § 308-66-220, filed 8/6/70; Order 2, § 308-66-220, filed 1/29/68.]

WAC 308-66-225 Remanufactured vehicles in whole or in part. What is the nature of remanufacturing? (1) If the remanufacturing process of the vehicle will involve the removal, destruction, or concealment of any identification number, the parts shall be inspected by an authorized member of the Washington state patrol prior to the removal, destruction, or concealment of the number.

(2) At no time shall a vehicle that falls within the purview of WAC 308-56A-455 (assembled or homemade) or 308-56A-460 (total loss rebuilt) be considered remanufactured by a manufacturer.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-225, filed 8/3/04, effective 9/3/04. Statutory Authority: RCW 46.70.160 and 1986 c 199 § 1, 87-01-016 (Order DLR 115), § 308-66-225, filed 12/9/86.]

WAC 308-66-227 Disclosure of title brands. How must I disclose title brands when I sell a vehicle at retail or wholesale? Any title brand required in RCW 46.70.101 (1)(b)(xi) must be clearly disclosed on the face of the purchase order.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-227, filed 8/3/04, effective 9/3/04; 98-20-039, § 308-66-227, filed 9/30/98, effective 10/31/98; 96-19-025, § 308-66-227, filed 9/9/96, effective 10/10/96.]

WAC 308-66-240 Bond cancellation, closure notice. (1) When the department of licensing has received notification

from a bonding company that a dealer's bond has been cancelled or the bond has expired and has not been renewed or a replacement bond has not been received with no lapse in coverage, the department shall notify the licensee to surrender the certificate issued for each license classification and dealer plates to the department.

(2) A bond cancellation closure notice may be posted by the department at the established place of business and shall remain in effect until the license and bond has been reinstated or when the current license expires.

(3) The closure notice will not be posted if the licensee voluntarily surrenders the license certificate and dealer plates and signs a statement that he/she does not plan to obtain a replacement bond or conduct further business.

[Statutory Authority: RCW 46.70.160, 98-20-039, § 308-66-240, filed 9/30/98, effective 10/31/98. Statutory Authority: RCW 46.70.160 and 46.70.070, 91-20-057, § 308-66-240, filed 9/24/91, effective 10/25/91.]

WAC 308-66-250 Internet business. Is a license required for an internet business? The department will require a Washington state dealer license for an internet business that has no physical presence in this state if that business:

(1) Brings together a Washington state customer with a licensed Washington state dealer; and

(2) Receives compensation from the customer or the dealer resulting from the actual sale or lease of a vehicle; or

(3) In any event acts as a vehicle dealer as defined in existing Washington state statutes and rules.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-250, filed 8/3/04, effective 9/3/04.]

WAC 308-66-260 Dealer license plates—Waiver procedure. How do I request more than my allotted number of dealer license plates? (1) A licensed vehicle dealer may request a waiver of the three dealer license plates or six percent or sales formula in RCW 46.70.090(2).

The request:

(a) Must be in writing; and

(b) Must explain why the statutory formula does not satisfy the business needs of the dealer; and

(c) Must indicate how many vehicles were sold by the dealer in the past twelve months; and

(d) Must project how many vehicles are expected to be sold in the next twelve months; and

(e) Must state how many additional dealer license plates are desired as essential for the continued operation of the dealer's business.

(2) Upon receipt of a request for a waiver, the director or the director's designee will review the request and issue a final determination in writing.

(3) A waiver granted under subsection (2) of this section will remain in effect only as long as the circumstance(s) under which the waiver was originally granted have not changed or until the director terminates the waiver.

[Statutory Authority: RCW 46.70.160, 04-16-090, § 308-66-260, filed 8/3/04, effective 9/3/04.]

WAC 308-66-270 Vehicle industry organization—Definition. The term "vehicle industry organization" means a dues-based business representing the interests of Washington

state vehicle dealers that is licensed or registered to conduct business in Washington.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-270, filed 11/29/12, effective 1/1/13.]

WAC 308-66-280 Course and education provider approval required. (1) Education providers must:

(a) Meet the definition of a vehicle industry organization;

(b) Submit a vehicle dealer course curriculum to the department for approval; and

(c) Have the course approved by the department prior to the date the course is offered for education credit.

(2) The director or designee will approve, conditionally approve or disapprove the course content and the education provider based upon criteria established within this chapter. The department will notify the education provider, in writing, of the department's decision and determining factors.

(3) The approval of the education provider and the course will expire three years after the effective date of approval by the department. To renew for an additional three year period, the provider must submit course curriculum and materials as outlined in this chapter.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-280, filed 11/29/12, effective 1/1/13.]

WAC 308-66-290 General requirements for course approval. (1) The application for course approval must be submitted by an education provider that meets the definition of a vehicle industry organization.

(2) The course curriculum must provide for a minimum of either eight hours of initial classroom instruction or five hours of yearly update education, or both.

(3) The curriculum must include a comprehensive test, approved by the department, at the end of the initial eight hour instruction which covers the minimum course curriculum elements.

(4) The minimum course curriculum elements are related to vehicle industry practices in the following areas:

- (a) Types of vehicle dealer licenses;
- (b) Completing the vehicle dealer application;
- (c) Regulatory agencies involved in the vehicle dealer industry;
- (d) Federal Trade Commission (FTC) regulations;
- (e) Unlawful vehicle dealer activities;
- (f) Motor vehicle advertising laws;
- (g) Vehicle titling and registration, and use of the electronic vehicle permitting system;
- (h) Vehicle warranties;
- (i) Standard industry forms;
- (j) Trust accounts;
- (k) Use of vehicle dealer plates;
- (l) Selling vehicles on consignment;
- (m) Vehicle financing.

(5) The development of the course curriculum and the test will be a collaborative effort subject to periodic review by both the department and the education provider.

(6) The education provider is responsible for ensuring the curriculum reflects accurate, complete and current information regarding federal and state laws, industry standards and best practices. Changes or updates must occur within

thirty days after the effective date of a change in federal, state, or local statutes or rules.

(7) The education provider is responsible for furnishing students with the instruction materials for the approved courses.

(8) The education provider must issue a certificate to the student upon successful completion of the course.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-290, filed 11/29/12, effective 1/1/13.]

WAC 308-66-300 Disciplinary action—Procedures—Investigation. (1) The department has the authority on its own initiative or upon complaint to investigate or audit any course to determine compliance with chapter 46.70 RCW and with the rules and regulations of this chapter.

(2) Complaints from students or citizens concerning approved courses must be made in writing to the department and contain the following information:

- (a) Complainant's name, address, and telephone number;
- (b) Education provider name, address, and telephone number;
- (c) Instructor name(s);
- (d) Nature of the complaint and pertinent information supporting the complaint;
- (e) An explanation of what efforts, if any, were taken to resolve the problem with the education provider; and
- (f) Copies of pertinent documents, publications, and advertisements.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-300, filed 11/29/12, effective 1/1/13.]

WAC 308-66-310 Grounds for denial or withdrawal of education provider or course material. (1) Course or education provider approval may be denied or withdrawn if the education provider:

- (a) Has had any disciplinary action taken against his or her license in this or any other jurisdiction;
- (b) Falsified any student records or classroom hour certificates;
- (c) Falsified any application or any other information required to be submitted to the department;
- (d) Attempted in any manner to either impart to any student candidate, the content of or answer to any test question(s), or both;
- (e) Violated any provision in chapter 46.70 RCW or the rules promulgated thereunder;
- (f) Failed to cooperate with the department in any investigation or hearing;
- (g) Has been convicted of a crime within the preceding ten years;
- (h) Violated provisions of any local, state, or federal antidiscrimination law;
- (i) Continued to teach or offer any vehicle industry subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections to the continuing subject matter;
- (j) Offered, sold, or awarded any classroom hours without requiring the student to successfully complete the hours for which the course was approved;

(k) Accepted registration fees but did not supply the service or failed to refund the fees, in accordance with the education provider's published refund policy, or both;

(l) Represented in any manner that the education provider is associated with a college or university unless it meets the standards and qualifications of, and has been approved by, the state agency having jurisdiction;

(m) Represented that an education provider is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to provide education under this chapter may state: "This school is approved under chapter 46.70 RCW;"

(n) Advertised, published, printed, or distributed false or misleading information regarding the education provider or course material;

(o) Advertised the availability of credit in any manner without affixing the educator name as approved by the department;

(p) Failed to teach a course consistent with the approved course content or curriculum;

(q) Failed to update curriculum for a change in statute or rules within thirty days of the effective date.

(2) The department also has the authority to withdraw a course approval or education provider approval if it was approved through the mistake or inadvertence of the director.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-310, filed 11/29/12, effective 1/1/13.]

WAC 308-66-320 Hearing procedure. Upon notice of education provider or course denial, conditional approval, disapproval or withdrawal of course approval, the provider or proposed provider is entitled to a hearing conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(1) The provider or proposed provider can exercise the right to a hearing under this section by requesting, in writing, a hearing within twenty days after receipt of notice.

(2) Appeal of the hearing outcome would be through a judicial review under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-320, filed 11/29/12, effective 1/1/13.]

WAC 308-66-330 Record retention. (1) Each education provider must:

(a) Maintain each student's record and each edition of any education related publication for a minimum of three years; and

(b) Provide a copy of a student's record to the student upon request.

(2) Student records must include:

(a) Full name, address, telephone number, and e-mail address (optional) of the student;

(b) Date of attendance and the date of registration agreement;

(c) Date the course was completed and the test results.

[Statutory Authority: RCW 46.70.170 and 46.70.79 [46.70.079]. 12-24-041, § 308-66-330, filed 11/29/12, effective 1/1/13.]