COLORADO REGULATIONS RELATED TO THE POWERSPORTS INDUSTRY

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DEPARTMENT OF REVENUE, Auto Industry Division, 1 CCR 205-2

REGULATION 12-6-502(11)

Profit or gain of money or other thing of value means:

Profit may be defined as the difference between the price paid and the market value of the vehicle after deduction of the expenses incurred in the sale thereof.

Gain of money or other thing of value includes but is not limited to any increase or addition to what one has of that which is of profit, advantage or benefit.

A profit or gain does not necessarily mean a direct return; and therefore, a saving of expense which would otherwise be incurred is also a profit or gain to the person benefitted.

REGULATION 12-6-504(1)(b) POWERS AND DUTIES OF THE EXECUTIVE SECRETARY

In addition to any other duties delegated to the executive secretary of the Motor Vehicle Dealer Board contained in the board's regulations, the executive secretary is delegated the authority to perform the following ministerial acts:

(I) The board permits its executive secretary to set and maintain the board's docket, grant motions for continuances and motions for enlargements of time, issue subpoenas, and issue final agency orders pursuant to the board's action.

(II) Board orders and correspondence may be written, signed and issued by the executive secretary on behalf of the board consistent with the board's action or direction. Notices of charges may be signed and issued by the executive secretary after the board has referred the matter for a hearing pursuant to section 12-6-504(1)(f)(V), C.R.S.

(III) The executive secretary is delegated the authority to conduct informal fact-finding conferences and make recommendations to the board for the granting or denying of an application for a powersports vehicle salesperson license.

REGULATION 12-6-504(1)(c)

1). A temporary license shall not issue, and a salesperson shall not be allowed to offer, negotiate or sell vehicles unless the Board has received and date stamped at the main office of the Auto Industry Division a signed application, completed in every respect, with all required details and attachments, including bond, fees, and the licensing examination affidavit required by regulation 12-6-504 (1) (k). Dealers'

payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.

2). All original applicants shall have a criminal history background investigation conducted prior to the issuance of a permanent license.

3). No temporary license shall issue to any person who has been the subject of disciplinary proceedings before the Board within the past 5 years, unless such disciplinary proceedings resulted in dismissal of all charges. Such person's application shall require prior Board review and approval of a license before said person shall be permitted to engage in activities requiring a salesperson license.

4). Any salesperson applicant who has been notified by the Auto Industry Division that additional documentation is required by the Board before a license can be approved, and who fails to comply by the date specified with the request for information, shall be deemed not to have submitted a complete application and may not engage in activities requiring a powersports vehicle salesperson license until the Board has reviewed and approved the application.

5). The Executive Secretary may issue a notice of denial to any applicant who fails to provide documentation as requested, if the application discloses, on its face, grounds for denial under section 12-6-520, C.R.S.

6). Any person who allows such applicant to engage in activities requiring a powersports vehicle salesperson license may be subject to disciplinary action for violation of section 12-6-509 C.R.S.

REGULATION 12-6-504(1)(j) SIGNAGE

The principal place of business and other locations of the dealer shall display a permanent sign thereon with letters at least six (6) inches in height, clearly visible to the major avenue of traffic, which sign shall clearly designate the name of the business for which the license application is made or under which such business is conducted.

REGULATION 12-6-504(1)(k)

1). Applicants may use the information provided by the Auto Industry Division to study for the examination. The following examination criteria shall apply to the examination process and the examination results: 1) the numerical percentage that will constitute a passing score on the examination, as determined from the ratio of questions correctly answered to questions asked shall be eighty-five percent (85%); 2) the number of times in a calendar day that an applicant may take the examination before being timed out prior to attempting the examination again shall be two (2); 3) the manner in which an applicant and others shall certify both the applicant's compliance with the required examination process and the authenticity of the examination results shall be by submission of an examination affidavit on the form approved by the Board.

2). Any applicant or licensee who is found to have falsified the examination affidavit or provided answers to an applicant prior to or during the examination may be subject to disciplinary action. An

applicant shall neither request nor permit any other person, including but not limited to any person administering the examination, to take the examination on his behalf or otherwise to assist him or to participate in the taking of the examination. An applicant shall neither request nor accept answers to examination questions from any other person, including but not limited to any person administering the examination, either before or during the examination. An applicant who violates this rule is subject to denial, suspension, or revocation of his license. Any licensee who either 1) assists an applicant in violating this rule, 2) conspires with others in violating this rule, 3) falsifies information regarding the results of an applicant's licensing examination, or 4) otherwise falsely declares to the Board or its representatives the manner in which an applicant took an examination, is subject to disciplinary action to the limits of the Board's jurisdiction.

3). If an applicant is not licensed within one year of passing the examination, the score is removed from the record and the person must retake and pass the examination again, in accordance with the Board's examination criteria, before a license can be issued.

4). The examination may be administered by the employing dealer or designated manager of the employing dealer, the Auto Industry Division, or a third party approved by the Board.

5). If an applicant has held a license during the previous twelve months, the applicant shall not be required to retake the examination.

<u>REGULATION 12-6-504(1)(l) (ANSI REQUIREMENTS)</u>

1. Beginning with 2009 model year all Four-Wheel All- Terrain Vehicles sold by persons licensed under this part 5, shall meet the American National Standard for Four-Wheel All-Terrain Vehicles, ANSI/SVIA-1-2007 Standard or a successor standard.

2. This requirement of sale shall apply only to those Four-Wheel All-Terrain Vehicles manufactured as 2009 models and all model years manufactured thereafter.

3. All Four-Wheel All-Terrain Vehicles manufactured as 2009 models and all models manufactured thereafter shall be equipped with a certification label, placed in a location that allows viewing without removing any part of the ATV. The wording of such certification label shall comply with the requirements of Section 12, of the ANSI/SVIA-1-2007 Standard.

REGULATION 12-6-504(1)(m) MANDATORY DISCLOSURES

A. DISCLOSURE FORM

1. The Board will prescribe a disclosure form consistent with the provisions of this regulation.

2. The name of the disclosure form will be: "Disclosures Required as Part of a Motor Vehicle/Powersports Vehicle Sale."

3. The Board may, at any time, reexamine and make revisions to the disclosure form, consistent with the provisions of this regulation.

4. The disclosure form in effect prior to the passage of this regulation shall remain in effect until the effective date of the initial edition of the disclosure form prescribed by the Board pursuant to this regulation.

B. DEFINITIONS

1. Contract - For purposes of this regulation, contract means any written agreement, such as a purchase agreement, buyer order or invoice, between a dealer and a buyer for the sale of a powersports vehicle, excluding the Retail Installment Sales Contract ("RISC").

2. Dealer - For purposes of this regulation, dealer means a powersports vehicle dealer or a used powersports vehicle dealer or a representative of the dealership.

3. Deposit – Money or other thing of value accepted by a Dealer as consideration for that Dealer's agreement to hold a powersports vehicle for a buyer.

4. Down Payment – Money, trade-in, or money and trade-in made as partial payment towards the purchase of a powersports vehicle.

5. Guarantee - For purposes of this regulation, guarantee means a written document or oral representation that would lead a buyer to have a reasonable good faith belief that the financing of a vehicle is certain.

C. APPLICATION

1. The disclosure form is not required for a sale solely between Dealers, between Wholesalers, or, between a Dealer and a Wholesaler.

2. At the time that the buyer signs a Contract, the disclosure form must be read, initialed and signed by the buyer and the Dealer.

3. The completed and signed disclosure form is a separate document that is part of the Contract.

4. The Dealer and buyer must complete only one disclosure form at the time of the signing of a Contract.

5. At the time of the signing of a Contract, a copy of the Contract, including a completed and signed disclosure form, must be given to the buyer.

6. The disclosures in the Credit Sale section of the disclosure form do not apply when the Contract is not contingent upon financing provided by or through the Dealer. In that event, the Credit Sale section should be crossed out.

7. A Dealer must complete a disclosure form with an interest rate that the Dealer reasonably believes can be obtained based on the creditworthiness of that prospective buyer.

8. The interest rate in the disclosure form must be the same as the interest rate in any Retail Installment Sale Contract signed by the buyer for the same vehicle.

D. USAGE FEE AND MILEAGE CHARGE

1. The Dealer must notify the buyer within ten (10) calendar days of the date the Contract is signed by the buyer, in the event financing cannot be arranged as originally agreed-upon.

2. If the Dealer and buyer agree that the Dealer will continue to attempt to arrange financing after ten calendar days, the Dealer must remind the buyer in writing that daily usage and mileage rates stated in the disclosure form, apply in the event financing cannot be arranged as originally agreed upon.

3. The Dealer and buyer must complete and sign a new disclosure form that reflects the new interest rate if:

a) funding cannot be arranged at or below the interest rate set forth in the preceding disclosure form; and

b) the Dealer and the buyer agree that the Dealer will attempt to arrange financing at an interest rate different than previously agreed upon.

4. The Dealer must retain a copy of all previously executed disclosure forms.

5. The Dealer must write in “NA” for “not applicable” or “Zero” in the dollar and cents fields, if the Dealer does not charge usage and mileage fees.

See form DR 2434, DOR

<u>REGULATION 12-6-504(1)(o)</u>

When considering whether to impose a fine and the amount of the fine, or other administrative penalty, the board will consider aggravating and mitigating circumstances, the degree of harm to a powersports vehicle purchaser, severity of offense, and whether there is a pattern of violations or repeat offenses.

<u>REGULATION 12-6-505(1)</u> [Recodifed as 1 CCR 210-2]

REGULATION 12-6-105(1)(c)

All applications for licenses must be approved by the administrator before they can be issued.

An application for a new license shall be acted upon promptly and written notice of the action taken by the administrator sent to the applicant either by personal service upon him or by certified mail sent to the last address furnished to the administrator by the applicant. If the applicant becomes subject to denial, the grounds therefor shall be given to the applicant and an opportunity for a hearing provided within 30 days after notice is given to the applicant. Such hearings shall be held in accordance with and in the same manner as those hearings which involve a suspension or revocation of a license. Failure to appear for the hearing without good cause shown shall be grounds for automatic denial of the application.

REGULATION 12-6-105(1)(d)

The administrator, on his own motion or upon the sworn complaint of any person, charging any licensee with a violation of any provision of the law or any rule or regulation promulgated by the administrator concerned with the sale and distribution of motor vehicles shall determine through an investigation conducted by him and his agents and representatives, the probable truth of such charge or charges.

REGULATION 12-6-105(1)(e)

1. All applications for licenses shall be made upon forms prescribed by the administrator. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual license fee.

If the applicant is a partnership, it shall submit with the application a certificate of partnership.

If the applicant is a corporation, it shall submit with the application a copy of its articles of incorporation, and if a foreign corporation, evidence of its qualification to do business within the state. In addition, each corporation applicant shall submit the names and addresses of all persons holding over ten percent of the outstanding and issued capital stock of said corporation. Any transfer of ten percent or more of the capital stock of any corporation holding a license under the provisions of this article shall be reported to the administrator not less than ten days prior to such transfer. All such reports shall be made on forms supplied by the administrator.

Upon request of the administrator, each applicant for a license shall provide suitable additional evidence of their residence, good character and reputation. Applicants and licensees shall also submit upon request by the administrator all required information concerning financial and management associations and interests of other persons in the business.

No licensee shall change the name or trade name of the business, his place of business or business address without submitting written notice to the administrator, not less than ten days prior to the change.

All information submitted to the administrator, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the administrator shall be grounds for the suspension, revocation, or denial of the license.

2. A change in the operating entity of a licensee's business shall be cause for the revocation of the

license and shall require a new application and fee.

REGULATION 12-6-105(1)(f)

If it shall appear from an investigation by the administrator and his agents and representatives, or shall

otherwise come to the attention of the administrator that there is probable cause to believe that a licensee has violated any provision set forth in this article or any rule or regulation promulgated in accordance therewith, the administrator shall issue and cause to be served upon such licensee either by

certified mail at the last address furnished the executive director by the licensee, or by personal service upon the licensee, a notice of hearing.

A hearing shall be held at a place and time designated by the administrator on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted.

After considering all the evidence and arguments presented at the hearing, the administrator will make a final determination either at the hearing or within a reasonable time thereafter, and send the licensee by certified mail at the last address furnished the administrator by the licensee or by personal service upon him a notice of final determination. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, a cease and desist order shall be issued by the administrator, and in the proper case his license suspended or revoked on such terms and conditions and for such period of time as to the administrator shall appear fair and just. The decision of the administrator shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate rule, order, sanction, relief or denial thereof. Failure to appear for the hearing without good cause shown shall be grounds for automatic suspension or revocation of the license. Cease and desist orders shall be issued by the administrator, after due notice and hearing in accordance with this article and the rules and regulations promulgated therewith for any unlawful acts engaged in by a licensee as enumerated in Section 12-6-120 (2), C.R.S., as amended.

REGULATION 12-6-114

The administrator, by accepting the filing of written warranties, is not authorized to mediate disputes between manufacturers, dealers and retail purchasers of motor vehicles. If the manufacturer provides no written warranty on any motor vehicle or parts thereof, written notice of this fact shall be given to the administrator and placed on file with him. The filing of such disclaimer of warranty shall not exempt such manufacturer from possible claims against him under this article.

REGULATION 12-6-505(1)(g) [Recodified as 1 CCR 210-2]1. All applications for licenses shall be made upon forms prescribed by the executive director. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual license fee.

If the applicant is a partnership, it shall submit with the application a certificate of partnership.

If the applicant is a corporation, it shall submit with the application a copy of its articles of incorporation, and if a foreign corporation, evidence of its qualification to do business within the state. In addition, each corporation applicant shall submit the names and addresses of all persons holding ten percent or more of the outstanding and issued capital stock of said corporation. Any transfer of ten percent or more of the capital stock of any corporation holding a license under the provisions of this article shall be reported to executive director not less than ten days prior to such transfer. All such reports shall be made on forms supplied by the executive director.

Upon request of the executive director, applicants for a license shall provide suitable additional evidence of residence, good character and reputation. Applicants and licensees shall also submit upon request by the executive director all required information concerning financial and management associations and interests of other persons in the business.

No licensee shall change the name or trade name of the business, the place of business or business address without submitting written notice to the executive director, not less than ten days prior to the change.

All information submitted to the executive director, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the executive director shall be grounds for the suspension, revocation, or denial of the license.

2. A change in the nature of the legal structure of a licensee's business shall be cause for the revocation of the license and shall require a new application and fee.

REGULATION 12-6-505(1)(h) [Recodified as 1 CCR 210-2]

REGULATION 12-6-508(1)(b) COMPENSATION DISCLOSURES

1. Whenever a used powersports vehicle dealer negotiates the sale, exchange, or lease of a powersports vehicle or used powersports vehicle not owned by the used powersports vehicle dealer, the following form will be deemed adequate to satisfy the disclosure requirements of section 12-6-508 (1)(b), C.R.S., for the used powersports vehicle dealer. This form is an example of adequate disclosure; nothing herein shall be construed to limit permissible disclosure to the information shown.

COMPENSATION DISCLOSURES

Pursuant to Colorado law,

_____

hereby discloses to

_____

(used powersports dealer)

(consumer)

1. My dealership will receive compensation from the consumer. (Check one)

_____ Yes _____ No

2. My dealership will receive compensation from the owner of the vehicle if a sale, exchange or lease is concluded. (Check one)

_____ Yes

_____ No

_____

(NAME OF OWNER)

_____

_____

_____

_____

Used Powersports Vehicle Dealer

Dealer #

Authorized Dealer Signature

Date

I have been provided a copy of the above disclosure prior to completion of such sale, exchange or lease of a powersports vehicle not owned by the licensee.

_____

_____

_____

Signature of Consumer

Printed Name

Date

<u>REGULATION 12-6-509(1)</u>

Evidence of a passing test score shall be as required by Regulation 12-6-504(1)(k).

REGULATION 12-6-509(2)

Applicants for an out-of-state temporary dealer license shall submit completed application, bond, and license fee. Specifically identified events shall include the Colorado State Fair, National Western Stock Show, and the annual Denver RV, Sports, Boat and Travel Show. Such out-of-state dealer shall provide evidence that the manufacturer has authorized the dealer to do business at such location in Colorado. No more than three out-of-state dealer licenses shall be issued to any one dealer per license year.

REGULATION 12-6-515

See Regulation 12-6-504(1)(k).

REGULATION 12-6-517(5) [Recodified as 1 CCR 210-2]

REGULATION 12-6-517(6)

In any case wherein a licensee or licensees are served with process by service upon the secretary of the board, the secretary shall, no later than two days after the service of said process, mail a copy thereof to each such licensee addressed to the licensee at the last address furnished to the board by the licensee, by certified mail with request for return receipt. A copy shall also be mailed to the surety on the licensee's bond at the address of the surety given in said bond, by certified mail with request for return receipt.

REGULATION 12-6-517(7)(d)

1. The board hereby delegates to the board's executive secretary the authority to execute all actions within the authority of the board respective to the Pre-licensing Education Program.

2. The executive secretary shall provide public notice a) immediately after the effective date of these rules, and b) once every year thereafter, by means of publication on the board's website, which public notice shall contain a general description of the Pre-licensing Education Program requirements and shall indicate the procedures by which interested persons may apply to obtain approval from the executive secretary to provide a Pre-licensing Education Program.

3. The executive secretary shall evaluate each Pre-licensing Education Program application for compliance with the requirements of the relevant statutes and rules.

4. An approval of a Pre-licensing Education Program is for a period of one year from the date of approval.

5. A Pre-licensing Education Program Provider can reapply by means of an updated application for an approval of its program in subsequent years.

6. The executive secretary shall, by means of a Letter of Approval, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing

approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been approved in its initial or a subsequent term, of the specific dates of the one-year term of the approval and of the procedures to apply to renew the approval for subsequent one-year terms.

7. The executive secretary shall, by means of a Letter of Denial, within thirty (30) days of the executive secretary's receipt of either 1) an initial application for an approval of a prospective Pre-licensing Education Program Provider or 2) a subsequent application for a renewal of an existing approval of a Pre-licensing Education Program Provider, notify any applicant, whose Pre-licensing Education Program has been denied in its initial or a subsequent term, of the basis and reasons for the denial and the procedure to follow to appeal the denial to the board.

8. Any recipient of a Letter of Denial shall have the right to appeal that denial to the board by means of a request for a hearing in writing within sixty (60) days after notice of the denial.

9. Any approved Pre-licensing Education Program Provider or prior approved Pre-licensing Education Program Provider may bring to the board a complaint or concern about the administration of the program application and approval process. The Provider must first seek to resolve the matter with the executive secretary. The Provider may bring its complaint or concern to the board by means of a request in writing within thirty (30) days of the failure of the Provider's efforts to resolve the matter with the executive secretary.

10. The executive secretary shall provide to the board the name of each approved Pre-licensing Education Program Provider and the term of approval for that Provider.

11. The executive secretary shall post on the board's website a list of the names, addresses, and contact information, as provided to the executive secretary, for each approved Pre-licensing Education Program Provider, showing the term of approval for each Provider and the geographic scope of each Provider's program.

12. An approved Pre-licensing Education Program Provider that intends to cease operations must provide the executive secretary with a written notice of cessation of its Pre-licensing Education Program at least 180 days in advance of the last date on which the Pre-licensing Education Program Provider will provide instruction in its Pre-licensing Education Program.

13. An approved Pre-licensing Education Program Provider shall maintain a place of business in the state of Colorado.

14. An approved Pre-licensing Education Program Provider shall maintain the following records at its Colorado place of business for a period of at least three (3) years from the date of the instruction of any participant: 1) the specific curriculum administered; 2) the specific handouts or other ancillary teaching materials provided or available to the participant; 3) the specific validation test or tests used; 4) the registration data for each participant, showing the participant's name, business association, date of participation, and means by which the participant was identified; 5) the specific validation test result(s)

for the given participant; 6) the name of the instructor or other program authority who administered the program to the participant; and, 7) a copy of the completion certificate provided to the participant.

15. The executive secretary shall have the authority as a matter of routine compliance investigation, or upon the receipt of a specific complaint, to perform an investigation of the activities of a Pre-licensing Education Program Provider.

16. The executive secretary shall have the authority to obtain copies at no cost to the State of all materials utilized in or related to a Pre-licensing Education Program, including, but not limited to, the records of a Pre-licensing Education Program Provider respective to any or all persons who have participated in the Provider's program.

17. Procedures for the suspension or revocation of the approval of a Pre-licensing Education Program Provider shall be in accordance with sections 24-4-104 and 24-4-105, C.R.S.

REGULATION 12-6-517(7)(f)(I)

The Pre-Licensing Education Program shall include in its content, federal and Colorado state laws and federal and Colorado state regulations governing powersports vehicle dealers. The education curriculum shall contain without limitation titles 4, 5, 6, 12, 18, 39, and 42 of the Colorado Revised Statutes applicable to powersports vehicle dealers and powersports vehicle sales and Federal Laws and Rules applicable to powersports vehicle dealers and powersports vehicle sales.

REGULATION 12-6-517(7)(f)(II)

1. An application from a prospective Pre-licensing Education Program Provider or a renewal application of a prior-approved Pre-licensing Education Program Provider must contain each of the following items:

a. Identifying information, to include the applicant's full legal name, the mailing address of its Colorado place of business, telephone number(s), email address(es), if any, and website addresses, if any. Addresses in addition to that of the Colorado place of business may also be provided, although communications will go to the Colorado place of business only.

b. Contact information, to include the name and title of any individual(s) who have authority to speak on behalf of the applicant.

c. A Pre-licensing Education Program Proposal for the delivery of the required education. The Proposal must include each of the following items, but may include additional items: 1) the manner of completing the eight (8) required hours of classroom instruction; 2) a detailed outline of curriculum (or full course materials, if available); 3) the full legal names and dates of birth of all instructors, teachers, and curriculum preparers, and their respective educational credentials (faculty additions and changes may later be made, subject to approval by the executive secretary); 4) routine educational materials, if any, which will be made available to program participants as part of the pre-licensing education program either prior to, during, or subsequent to the classroom attendance time; 5) optional educational materials, if any, which will be made available to program participants as supplements, enhancements,

or enrichments in addition to routine educational materials; 6) the testing protocols and baselines of achievement that will be used to ensure that a program participant has learned what the program is required by law to teach; and, 7) the methods that the Pre-licensing Education Program Provider will consistently use a) to establish the identity of each participant in the Pre-licensing Education Program and b) to verify that any test or examination validating achievement in the Pre-licensing Education Program is taken by the individual participant whose identity had been established and not by another person.

2. The provider of a Pre-licensing Education Program must have a minimum of three (3) years experience in the regulation and enforcement of state and federal laws governing motor vehicle dealers and/or powersports vehicle dealers and motor vehicle and/or powersports vehicle sales, or have three (3) years experience as an instructor working for an approved Pre-licensing Education Program provider.

3. The executive secretary shall require additional information from any applicant, in the event that the application is deficient with regard to any of the noted materials, or in the event that more information is needed to reach a decision on the application.

REGULATION 12-6-517(7)(f)(III)

1. A Pre-licensing Education Program Provider must maintain an educational site, or sites, appropriate to classroom instruction.

2. A Pre-licensing Education Program Provider must ensure the integrity of its educational materials and the instructional records of its participants, each being subject to inspection by the executive secretary.

3. The executive secretary will evaluate each prospective Pre-licensing Education Program Provider and each prior-approved Pre-licensing Education Program Provider reapplying for program approval with regard to the above criteria.

REGULATION 12-6-517(7)(f)(IV)

1. The methods of instruction may vary according to the approved Pre-licensing Education Program approved for any given Pre-licensing Education Program Provider, and may include within the eight-hour classroom instruction limitation: 1) traditional or non-traditional classroom instruction geared to adult learners, with testing validation; and, 2) CD or DVD instruction, with provisions for testing validation.

2. The methods of instruction actually used must match those that were approved through the application process.

REGULATION 12-6-517(7)(g)

An approved Pre-licensing Education Program Provider shall issue a Program-completion Certificate to each person who successfully completes an approved Pre-licensing Education Program. The Certificate shall be on a form approved by the Executive Secretary and shall be issued within ten (10) days of successful completion of the Pre-licensing Education Program.

REGULATION 12-6-517(7)(h)

An approved Pre-licensing Education Program Provider shall submit to the executive secretary a copy of the Program-completion Certificate for each person, who has successfully completed the approved Pre-licensing Education Program within the approved program standards, within ten (10) days of the completion of the approved program. The copy of the Program-completion Certificate may be sent by mail, by fax, or by email.

REGULATION 12-6-519(1)

1. “Adequate sanitary facilities” means a permanent sewer hookup, cesspool or septic tank with leaching field, or portable chemical toilet.

2. A dealer’s license shall not be issued to a person located at a principal place of business or other additional locations unless such place of business or additional locations are owned or leased by and actually occupied by the applicant. A powersports vehicle dealer’s license shall be suspended or revoked if the dealer’s principal place of business or other additional locations are not owned or leased by and not actually occupied by the licensee.

REGULATION 12-6-520(3)(a)

“Material misstatement” means any relevant false or misleading statement, omission, or misrepresentation by the applicant or a partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, regarding personal identification information, employment history, personal or business entity financial information, prior occupational licensing history, whether regarding a license issued by the board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, and deferred judgments, civil judgments, assurances of discontinuance, consent order/decree, and/or stipulation arising from the operating of a business in this state or any other state engaged in the sale, lease, or distribution of powersports vehicles. This Regulation does not apply to shareholders of corporations, who own less than five per-cent, that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended.

REGULATION 12-6-520(3)(c)

Dealers, officers, directors or stockholders of corporations owning five per-cent or more, licensed as such, who are convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to Article 3, 4, or 5 of Title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, shall provide to the board written notice of such conviction within thirty days after receiving such conviction. The licensee shall provide complete information including copies of such conviction and pre-sentence reports within thirty days of the conviction.

REGULATION 12-6-520(3)(h)

A. DEFINITIONS FOR PURPOSES OF THIS REGULATION

1. “Contract” means any written agreement, such as a purchase agreement, buyer order or invoice, between a Dealer and a Buyer for the sale of a powersports vehicle, excluding the Retail Installment Sales Contract (“RISC”).

2. “Dealer” means a powersports vehicle dealer, used powersports vehicle dealer, wholesaler, or a representative of the dealership.

3. “Seller” means Dealer.

4. “Buyer” means a retail consumer or a Dealer.

5. “Material Particulars” means those details concerning a powersports vehicle for sale that are essential or necessary for a reasonable prospective Buyer to know prior to making the decision to buy or not to buy a powersports vehicle.

B. DISCLOSURE PROCESS

Prior to the signing of the Contract, the Seller shall produce a written document disclosing all known Material Particulars. Both the Seller and Buyer must sign the document. The document is deemed to be part of the Contract. A signed copy of the Contract and the disclosure document shall be provided to the Buyer at the time of sale. The Seller shall retain a copy of the Contract and the disclosure document.

C. “AS IS” STATEMENT

A statement by the Seller to the Buyer that a vehicle is sold “as-is” does not relieve the Seller of the disclosure obligations imposed by this regulation, nor does it relieve the Seller of any other disclosure obligations otherwise required by state or federal law. An “as-is” statement solely disclaims implied warranties under provisions of the “Colorado Uniform Commercial Code,” Title 4, C.R.S.

D. NON-EXCLUSIVE LIST OF “MATERIAL PARTICULARS”

Material Particulars include but are not limited to any of the following:

1. Year and make of the powersports vehicle, and, if known to the Seller, the historical mileage or hours of operation of the vehicle.

2. Complete replacement of the engine, drivetrain, or chassis.

3. Repair or replacement of skis or tracks.

4. The powersports vehicle is a “Salvage vehicle” as that term is defined in the Colorado “Certificate of Title Act,” part 1 of article 6 of title 42, C.R.S.

5. The powersports vehicle has sustained damage, whether repaired or not repaired, of the following types:

a. Frame or unibody damage of any grade or type; or

b. Flood, fire or hail damage; or

c. Accident or collision damage.

6. The powersports vehicle has been modified in a way that impacts warranty coverage.

7. The powersports vehicle had been declared a “total loss” by an insurance company.

8. The powersports vehicle had been stolen.

9. The powersports vehicle had been used as a police vehicle, vehicle for hire, rental vehicle, or a loaner or courtesy vehicle, if such use is clearly ascertainable from a title brand, from information obtained from a prior owner, from a Vehicle Identification Number (VIN), from a State-issued Identification

Number, or from any other source.

10. The powersports vehicle had been put to a use or had been altered in such a way that a reasonable person would consider unusual or extraordinary, such as use as a racing vehicle.

E. MATTERS GENERALLY NOT CONSIDERED “MATERIAL PARTICULARS”

This list is not intended to be all-inclusive. Material Particulars do not generally include the items on the following list:

1. Normal wear and tear.

2. Completed or prior mechanical repair.

3. General maintenance.

4. Repair or replacement of tires, wheels, glass, handlebars, moldings, radios, indash audio equipment, or the like, provided that the repair or replacement was completed in a manner reasonably comparable to manufacturer’s specifications and provided that any repaired or replaced item is functioning at the time of sale in the manner that a reasonable person would expect.

5. Touch-up paint for minor scratches, dents, or dings.

6. Completed recall repair, provided the repair was done by a dealer authorized by the manufacturer to perform such repairs.

<u>REGULATION 12-6-520(3)(i)</u>

Advertising shall be construed to be misleading or inaccurate in the following particulars:

Rule 1. Advertising a powersports vehicle which is not in operable condition unless specifically disclosed.

Rule 2. Advertising which would imply the dealer is going out of business when such is not the case.

Rule 3. Advertising a specific powersports vehicle for sale or lease with price or terms quoted, without fully identifying the vehicle as to year, make, model, if known, and dealer stock number. Such vehicle shall be willfully shown and sold at the advertised price and/or terms while such vehicle remains unsold or unleased, for a period of five days following the last date the ad was published, unless the ad states that the advertised price and terms are good only for a specific time and such time has elapsed. If a specific number of powersports vehicles are advertised, such vehicles must have been invoiced to the dealer.

Rule 4. Using a picture or photograph of a powersports vehicle in advertising when the picture or photograph is not the same make, year and equipment actually being offered for the price or terms advertised.

Rule 5. Advertising in such a manner which utilizes an asterisk or other reference symbols to contradict or materially change the meaning of any advertising statements.

Rule 6. A used powersports vehicle shall not be advertised in any manner that creates the impression that it is new.

Rule 7. Advertising in any manner to imply that a purchaser will be receiving benefits of any existing loan on a powersports vehicle when no such benefit exists.

Rule 8. Advertising or making statements that are not true or that cannot or will not be honored. Advertising which creates the false impression that the purchaser will determine the terms, price or conditions of a sale, such as “write your own deal,” “name your own price,” “no reasonable offer refused,” and “we will not be undersold.” Advertising any item as “free” which is associated with or conditioned upon the negotiated sale of a powersports vehicle.

Rule 9. Advertising sales prices for used powersports vehicles which claim or imply a specific savings or discount without clearly and accurately documenting the basis for the savings or discount

Rule 10. Advertising any reference to “dealer cost” or “invoice” price. Advertising the word “wholesale” in connection with the retail offering of powersports vehicles.

Rule 11. Advertising a specific trade-in amount or range of amounts without, in fact, offering such a trade-in amount and, failing to disclose or advertise the M.S.R.P., sale price, or capitalized cost of the powersports vehicle from which the trade-in will be deducted.

Rule 12. Advertising the price of a powersports vehicle without including all costs to the purchaser at the time of delivery, except sales tax, finance charges, cost of any required emissions test, other governmental fees or taxes, and transportation costs, incurred after sale, to deliver the powersports vehicle to the purchaser at the purchaser’s request.

Rule 13. Advertising any specific discount or rebate on new powersports vehicles without the manufacturer’s suggested retail price conspicuously stated in the ad. When advertising rebates,

incentives, or other offers, a dealer shall not combine such offers or give the impression that such offers are obtainable, when in fact they are not.

Rule 14. Advertising any qualifying statement or disclosure which is not clear, conspicuous, and readable, and which is not adjacent to the offer or terms it qualifies, and in less than eight-point type.

Rule 15. Advertising any contest that offers to prospective participants the opportunity to receive or compete for gifts or prizes without such advertisement containing the words “no purchase or payment of any kind is necessary to enter or win this contest” in bold-faced type and at least ten-point type.

Rule 16. If any advertisement relates to a lease, the advertisement shall clearly and conspicuously disclose that the advertisement is for the lease of a powersports vehicle.

Rule 17. Statements, such as “Everybody Financed,” “No Credit Rejected,” “We Finance Anyone,” and other statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit, are prohibited, unless such statements are true.

Rule 18. The term, “advertisement,” shall have the same meaning as set forth in § 12-6-102 (1.5), C.R.S., and the term, “computer display,” means any electronic device capable of presenting a commercial message.

Rule 19. Bait advertising, as defined in § 18-5-303, C.R.S., is not allowed.

REGULATION 12-6-520(3)(k)

All powersports vehicle dealers and all used powersports vehicle dealers must be open for business at least three (3) days per week for a continuous period of time not less than four (4) hours per day between the hours of 8 A.M. and 9 P.M.

Any powersports dealership open less than forty (40) hours a week must post a clear and legible sign on its place of business indicating the days and hours that it is open for business. In addition such powersports dealerships shall notify the board in writing of any subsequent change in such periods of time.

Any powersports dealership which will not be open for business for a period of at least two (2) weeks must post a clear and legible sign on its place of business indicating this fact as well as notifying the board in writing of such fact.

A powersports dealer’s principal place of business shall be made available to inspection by the board or its agents and employees at any reasonable time even if such time is outside the usual business hours posted by the dealer.

REGULATION 12-6-520(3)(p)

A powersports dealer shall give notice of rejection of financing to the prospective buyer within ten (10) calendar days from the date of the purchase order or agreement on a finance or consignment sale.

REGULATION 12-6-520(4)(a)

"Material misstatement" in an application for a salesperson license means any relevant false or misleading statement, omission, or misrepresentation regarding personal identification information, employment history, prior occupational licensing history, whether regarding a license issued by the board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, plea of nolo contendere or a plea in a deferred judgment and sentence.

REGULATION 12-6-520(4)(f) REISSUE OF POWERSPORTS SALESPERSON LICENSES

1. Salespersons who change employment during their license year shall notify the Auto Industry Division, on the form prescribed by the board, of the identity of the new employer prior to commencing employment at the new dealership.

2. Upon the submission of the notification, acknowledged by the new employing dealer, the salesperson may begin working as a salesperson at the new employing dealership.

3. After receipt of notification, the Auto Industry Division shall issue a new license to the salesperson for the remainder of the license term with the new employing dealership.

4. Any salesperson who fails to provide timely notification may be subject to disciplinary action.

REGULATION 12-6-520(4)(h)

A powersports salesperson who is convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to article 3, 4, or 5 of title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, must give the board written notice of such conviction within thirty days after such conviction. The licensee shall provide complete information including copies of the conviction and pre-sentence reports within thirty days of the conviction.

REGULATION 12-6-520(5)

(a) The Board, in determining whether a licensee or license applicant has demonstrated unfitness of licensing character or record, will consider whether the licensee or license applicant or the licensee's or license applicant's partner, officer, director, or shareholder of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, 1) has had a license fined, denied, suspended or revoked; 2) has been determined to have violated the licensing examination procedures of Regulation 12-6-504 (1) (k); or, 3) has had any complaints, civil judgments, injunctions, consent orders/decrees, or stipulations, arising from the operation of a business in this state or any other state, engaged in the sale, lease, or distribution of powersports vehicles, and, if so, the nature, severity, and extent of these legal matters. This regulation does not apply to shareholders of corporations, who own less than five per-cent that are subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended.

(b) The Board, in determining whether a licensee or applicant has demonstrated unfitness of criminal character or record, will consider the nature and date of the convictions, parole or probation status, including whether the licensee or applicant has maintained satisfactory compliance, and/or restitution. A pattern of convictions which individually may not constitute grounds for denial or disciplinary action, may, taken together constitute unfitness.

(c) The Board, in determining whether a licensee or applicant has demonstrated unfitness of financial character or record, will consider net worth, liquid assets including cash, lines of credit, marketable securities, credit reports, unpaid judgments and/or tax liens, delinquent debts, and bankruptcy status. Applications for a powersports vehicle dealer or used powersports vehicle license will be closely evaluated based on the factors herein and the applicant's concept of operation for the business to assess the potential for harm to retail customers.

(d) Failure to pay any fine imposed by the Board, or the submission of a draft or check for the payment of any fee required by the Board which is dishonored, shall be deemed to demonstrate unfitness of financial character or record.

REGULATION 12-6-521(2) HEARING PROCEDURES

(I) The board president will normally preside at hearings before the full board, or in the president's absence, such board member as may be designated by a majority of the board members present, may preside and conduct the hearing.

(II) The presiding officer shall rule on all evidentiary and procedural matters during the course of the hearing. Rulings on motions prior to or after the hearing, and the findings, conclusions, and order shall be determined by a majority of board members present. In the event a motion is filed requesting relief from a board order, the effects of which will occur prior to the next scheduled meeting of the board, the board president may rule on said motion, and the executive secretary shall issue the written order on behalf of the board. In the absence of the president, the first vice-president or second vice-president respectively may rule on any motion.

(III) An original and 10 copies of all documents intended to be introduced into evidence at hearings before the full board shall be provided for distribution to the board and the opposing party. Respondent's and applicant's exhibits shall be marked alphabetically. The Department of Revenue's exhibits shall be marked numerically.

(IV) License applicants shall have the burden of proof to demonstrate to the board that they meet all the qualifications for licensure. If denied a license by the board, applicants shall have the burden of proof to demonstrate that the specific reasons given in the notice of denial should not preclude the issuance of a license. Salesperson license applicants shall provide written proof that the employing dealer is aware of the grounds giving rise to the initial license denial, and, that said dealer shall be responsible for the actions of the salesperson in the course of employment in the event that a restricted license is approved.

(V) Motions shall be served on the board through its executive secretary with proof of service on the opposing party. Except in the most extraordinary circumstances, motions shall be filed not later than 30 calendar days prior to the hearing. A response to any motion shall be filed within 5 business days of the filing of the initial motion. Failure to timely comply may result in the motion being denied. Motions will be considered by the board at its next opportunity. The pendency of motions shall not be cause to continue a scheduled hearing.

(VI) Continuances will not be granted unless timely filed and with good cause shown. Unreasonable delay in securing legal counsel or failing to timely exercise discovery rights may not constitute “good cause” except in the most extraordinary circumstances.