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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

July 26, 2001

Robert G. Pickerill, Chairman
State Board of Vehicle Manufacturers, Dealers and Salespersons
116 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-602 (IRRC #2200)
State Board of Vehicle Manufacturers, Dealers and Salespersons
General Revisions

Dear Chairman Pickerill:

Enclosed are our Comments. They will soon be available on our website at www.irrc.state.pa.us.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director

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Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection & Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection & Professional Licensure Committee
Honorable Kim Pizzingrilli, Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Vehicle Manufacturers, Dealers and Salespersons Regulation No. 16A-602

General Revisions

July 26, 2001

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by June 25, 2003, the regulation will be deemed withdrawn.

1. Section 19.2. Definitions. - Clarity.

General

The Board is deleting definitions from Section 19.2 that are defined in the statute. For clarity, we suggest adding a reference to 63 P.S. § 818.2 (relating to definitions) for those terms that appear in Chapter 19.

Department

The proposed amendments would retain this term. However, we have not found this term used in Chapter 19. If the term is not used, it should be deleted.

Interest in vehicles

The Board explains in the Preamble that the term "interest in vehicles" is being defined in the regulation to clarify its use in the statutory definition of "dealer" in 63 P.S. § 818.2. However, the wording of the regulation does not convey this intent. For clarity, we suggest adding language and a reference to the regulation relating the term "interest in vehicles" to the statutory definition of "dealer."

Salesperson and vehicle

The terms "salesperson" and "vehicle" are defined in 63 P.S. § 818.2. However, the regulation continues to use the terms "salesman," "vehicle salesperson" and "motor vehicle." Specifically, the list of Sections at the beginning of Chapter 19 uses the term "salesman's"; the term "vehicle salesperson" appears in Sections 19.4, 19.11 and 19.12, and in the title preceding Section 19.11; and the term "motor vehicle" continues to appear in Section 19.22. The Board should review these provisions and use the new statutory terms "salesperson" and "vehicle."

2. Section 19.18. Established place of business for dealers. - Clarity.

In Subsection (a)(3)(i), the phrase “unless the Act provides otherwise” is vague. If the Act provides otherwise, the Board should include it in the regulation or specifically reference the provision of the Act which supercede the regulation.

3. Section 19.22. Investigation. - Clarity.

The Board explained that existing Paragraphs (1) - (8) and (18) - (22) will be deleted because they are in the Act. The House Professional Licensure Committee suggested adding language to notify licensees of acts prohibited by statute in addition to those listed in the regulation. We agree. For clarity, we suggest adding a reference to the statutory provisions in 63 P.S. § 818.19. This would give a licensee more complete notice of all prohibited actions.