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**INDEPENDENT REGULATORY REVIEW COMMISSION  
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April 30, 2003

Edward J. Cernic, Jr., Chairperson  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
116 Pine Street  
Harrisburg, PA 17105

Re: Regulation #16A-605 (IRRC #2325)  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
Branch Lots

Dear Chairperson Cernic:

Enclosed are the Commission's Comments for consideration when you prepare the final version of this regulation. These Comments are not a formal approval or disapproval; however, they specify the regulatory criteria which have not been met.

The Comments will soon be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director

wbg

Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Pedro A. Cortes, Acting Secretary, Department of State

# **Comments of the Independent Regulatory Review Commission**

**on**

## **State Board of Vehicle Manufacturers, Dealers and Salespersons Regulation No. 16A-605**

### **Branch Lots**

**April 30, 2003**

We submit for your consideration comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) 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regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

#### **1. General. – Clarity.**

We have two general concerns with this regulation.

The House Professional Licensure Committee (House Committee) has questioned the appropriateness of placing this subchapter under the “General Provisions” heading of the current regulations. Since the subject matter of the proposed regulation specifically addresses dealerships, we agree and suggest that the Board move this proposed subchapter under the “Dealership License” heading of the current regulations.

Second, Subsection (c)(2) of Section 19.5 states that this regulation does not apply to the placement of recreational vehicles, mobile homes or manufactured housing. Why did the Board provide for these exclusions in a regulation that isn't applicable to the mentioned products? The Board should delete this provision, or explain why it is needed.

#### **2. Section 19.5. Branch lots. – Clarity.**

##### *Subsection (b) Storage of vehicles.*

Subsections (b)(3), (4), (6) and (7) begin with the phrases, “No salesperson..., no sign..., no literature....” This language expresses the negative in the actor. However, the negative in this instance belongs with the action, not the actor. Therefore, the Board should change the language in these subsections, placing the negative with the verb, and not with the subject of the sentence.

Subsection (b)(8) requires that “potential customers are not able to communicate with a representative of the dealer from the lot, by telephone, e-mail, computer or otherwise....” The Board should clarify in this provision that the dealer may not provide a telephone, computer or other means of communication for the customer to contact the dealer from the unlicensed lot.

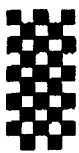
*Subsection (c) Single vehicle display.*

We have three concerns with this subsection.

First, the House Committee has suggested that this subsection should include a provision that requires a dealer to place a sign indicating that the vehicle is for display only, including notice that sales negotiations or transactions may not occur at the site. We agree.

Second, Subsection (c)(1)(v) contains the phrase “other documents.” To what other documents does this phrase refer? To facilitate compliance and improve clarity, this phrase should be replaced with specific references.

Finally, Subsection (c)(1)(vi) requires that “the vehicle is locked or otherwise not capable of being entered....” This sentence should emphasize that it is the dealer’s responsibility to ensure that the vehicle is locked and that the public is unable to gain entry in any manner.



# INDEPENDENT REGULATORY REVIEW COMMISSION

**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 7-0251

**From:** Kristine M. Shomper  
Administrative Officer  
**Company:** Independent Regulatory Review  
Commission  
**Phone:** (717) 783-5419 or (717) 783-5417  
**Fax:** (717) 783-2664

**Date:** April 30, 2003  
**# of Pages:** 4

Vertical stamp: RECEIVED COMMISSION

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Board of Vehicle Manufacturers, Dealers and Salespersons' regulation #16A-605 (#2325). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Suzanne Hoy* Date: 4/30/03