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

June 22, 2005

Edwin K. Galbreath, Jr., Chairman  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
2601 North 3rd Street  
Harrisburg, PA 17110

Re: Regulation #16A-608 (IRRC #2471)  
State Board of Vehicle Manufacturers, Dealers and Salespersons  
Protest Proceedings

Dear Chairman Galbreath:

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 of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irc.state.pa.us](http://www.irc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director

evp

Enclosure

cc: 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 Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Pedro A. Cortes, Secretary, Department of State

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

**on**

## **State Board of Vehicle Manufacturers, Dealers and Salespersons Regulation #16A-608 (IRRC #2471)**

### **Protest Proceedings**

**June 22, 2005**

We submit for your consideration the following 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. The public comment period for this regulation closed on May 23, 2005. 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regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.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. Section 19.31. Filing of papers. – Clarity.**

This section uses the term “papers” to describe documents that could be filed in a protest proceeding. This term lacks clarity. The Board should either define the term “papers” or replace it with the term “documents” or “legal documents.”

#### **2. Section 19.36. Prehearing statements. – Implementation procedures; Clarity.**

Subsection (c), relating to sanctions, states the following: “Failure to file a prehearing statement as required by this section and within the time specified in the scheduling order may subject a party to sanctions, including being precluded from presenting evidence.” We have two questions.

First, under what circumstances would the Board impose the sanctions? Second, what other sanctions could be imposed by the Board? For clarity, the Board should provide additional examples of sanctions or include a citation to a provision where sanctions are outlined.

FROM

JUN-22-2005 WED 01:57 PM

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### Facsimile Cover Sheet

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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14<sup>TH</sup> FLOOR, HARRISBURG, PA 17101

**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 7-0251  
**Date:** June 22, 2005  
**Pages:** 2

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Department of State

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Board of Vehicle Manufacturers, Dealers and Salespersons regulation #16A-608 (IRRC #2471). 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: 6/22/05