

Motor Vehicle Division Informational Memo # 18-04

Motor Vehicle Dealer Rule Updates

DATE: April 17, 2018

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Office of Vehicle & Motor Carrier Services staff, Bureau of Investigation & Identity Protection staff, County Treasurers and County Treasurer staff

SUBJECT

This informational memo explains updates to administrative rule chapter 761 IAC 425, Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers.

SUMMARY

The amendments form a comprehensive update of the rules affecting or involving unregistered vehicles in a dealer's inventory displaying a special dealer plate and which may be used to haul or tow, display or sale of motor vehicles at additional places (including fairs), advertising as it relates to being engaged in the business of selling motor vehicles and the minimum bond amount required for motor vehicle dealers. The amendments also better implement and align with existing legal authority and department practice, and eliminate outdated or irrelevant requirements or options and accommodate modern procedures.

Additional details regarding the amendments to these rules include the following:

Special Dealer Plates:

The amendments to subrule 761 – 425.70(3), Use of dealer plates, incorporate statutory changes made to Iowa Code sections 321.57 and 321.60, which relate to a motor vehicle dealer operating a vehicle owned by the dealer for private or business purposes without registering the vehicle if the vehicle is in the dealer's inventory and is continuously offered for retail sale. The vehicle must display a special dealer plate. The amendments also provide that an unregistered vehicle in the dealer's inventory may be used to haul a load or tow a trailer if the vehicle displays a special haul or tow dealer plate.

Motor Vehicle Sales at Additional Places other than Dealership:

The amendments to rules 761 – 425.26, Fairs, shows and exhibitions; 761 – 425.31, Firefighting and rescue show permit and 761 – 425.62, Denial, suspension or revocation incorporate statutory changes made to Iowa Code section 322.5(2), which specifies additional places where a motor vehicle dealer may display, offer for sale, or negotiate sales for new motor vehicles. Currently, a dealer with a temporary permit can display, but not offer to sell or negotiate the sale of, motor vehicles at fairs, vehicle shows and vehicle exhibitions anywhere in the state and can display, offer for sale, and negotiate the sale of motor vehicles at fair events, vehicle shows and vehicle

exhibitions within the dealer's "community" as defined 322A.1. The definition of "community" means the dealer's area of responsibility as defined in its franchise agreement with the manufacturer. However, "fair events" as defined in the rule did not include the state fair. The amendment adds the existing definition of "community" from Iowa Code section 322A.1 in order to provide clarity as to where a dealer may offer vehicles for sale at an additional place other than its dealership as well as add the state fair to the list of events for which a temporary permit may be issued to either display or sell vehicles as provided for in the rules.

Advertising as "Engaged in the Business" of Selling Motor Vehicles:

The amendment to rule 761 – 425.3, Definitions, updates the definition of "engaged in this state in the business" to also include the advertising of being engaged in the business of "acquiring, selling, exchanging, holding, offering, displaying, brokering, accepting on consignment, conducting a retail auction, or acting as an agent for the purpose of doing any of those acts." This change aligns with the statutory change made to Iowa Code section 322.2, and is important because advertising of those acts was not previously included in the definition and because persons who are engaged in the business of selling motor vehicles are required to obtain and maintain a motor vehicle dealer's license to do so.

Dealer Surety Bond Amount:

The amendment to subrule 761 – 425.10(2), Surety bond, increases the minimum bond required for a motor vehicle dealer's license from \$50,000 to \$75,000 in compliance with the statutory change made to Iowa Code section 322.4.

The amendments to Iowa administrative rule chapter 761 IAC 425 were adopted and are **effective April 18, 2018**.

LINK TO IOWA ADMINISTRATIVE RULES

<https://www.legis.iowa.gov/docs/iac/chapter/03-14-2018.761.425.pdf>

BUSINESS IMPACT

Administrative rule chapter 761 IAC 425 was updated to clarify the rules as outlined above. This directive aligns with legislative changes, which have already been implemented. However, it is important to be aware that the administrative rule chapter governing Motor Vehicle Dealers has been updated to align with these changes.