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**Vermont Department of Motor Vehicles  
Agency of Transportation**

**Report to the Senate and House Committees on Transportation  
Act. No 158 of 2016, Sec. 55  
DEALER REGULATION REVIEW**

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January 30, 2017

## BACKGROUND

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The following report is submitted pursuant to Act. No. 158 of 2016, Sec. 55, which requires the Commissioner of Motor Vehicles to provide the Senate and House committees on Transportation with recommendations specific to “Dealer Regulations “after review of all applicable statutes, rules and regulations.

*(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont’s regulation of dealers and associated motor vehicle laws should be amended to:*

- (1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and*
- (2) protect the State’s interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.*

*(b) In conducting his or her review, the Commissioner shall consult with new and used vehicle dealers or representatives of such dealers, or both, and other interested persons.*

*(c) The Commissioner shall review:*

- (1) required minimum hours and days of operation of dealers;*
- (2) physical location requirements of dealers;*
- (3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;*
- (4) the permitted uses of dealer plates;*
- (5) whether residents of other states should be allowed to register vehicles in Vermont;*
- (6) the effect any proposed change will have on fees and tax that dealers collect and consumers pay;*
- (7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and*
- (8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.*

## INTRODUCTION

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Staff with DMV's Investigative Section were tasked with conducting the review as outlined in Section 55. Staff spoke with the Vermont Vehicle and Automobile Distributors Association (VADA) as well as several new and used car dealership representatives as well as a dealership that focuses on wholesale purchases only. In addition, DMV submitted a survey to the American Association of Motor Vehicle Administrators (AAMVA) jurisdiction from the U.S. and Canada querying their business practices of which 26 jurisdictions responded. Additional information was received regulatory counterparts in other jurisdictions.

Representatives of licensed dealerships are trained and regulated by DMV's Enforcement and Safety Division's Investigations Section, which consists of 12 sworn and non-sworn investigators. In 2015/2016, investigators completed 2,575 dealer related assignments, to include 79 Dealer License Approvals and Set-ups, 574 Dealer Renewal Audits and 527 Dealer Investigations resulting from complaints filed regarding Dealers. Revenue resulting from the licensing of Dealer application fees based upon the current dealer application fees are projected to be more than \$230,000.00 annually.

The State of Vermont has:

- 97 licensed New Car/Truck Dealers
- 326 license Used Car/Truck Dealers,
- 38 licensed Motorcycle Dealers
- 32 licensed All-terrain Vehicle Dealers
- 30 Snowmobile Dealers
- 70 Trailer Dealers; and
- 37 Motorboat Dealers.

Note: Survey results represent comments from 26 jurisdictions (includes States and Provinces).

## THE REPORT AND RECOMMENDATIONS

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### BUSINESS DAYS, HOURS AND BUILDING REQUIREMENTS

#### **1. (c)(1) required minimum hours and days of operation of dealers**

Vermont requires New/Used Car Dealers; Farm Equipment Dealers; Motorized Highway Building Equipment Dealers; Motorcycle/Motor-driven cycle Dealers to be open for business a minimum of one hundred and forty-six (146), six (6) hour days (4 of the 6 hours must be consecutive) between 6 AM and 6 PM.

- **Participants Surveyed: 92% of responding jurisdictions have no requirement for the number of days a dealer must be open for business per year.**

**Recommendation:** To show a dealership's commitment to its consumers and the community, as well as meeting DMV representative accessibility, required business days and hours of operation are minimal and should not be reduced for any licensed dealership with exception of Motorboat and Snowmobile dealers.

**Consideration:** For operation of Motorboat and Snowmobile dealers to be open for business a minimum of 90-days per year, six-hour days per day and four of the hours must be consecutive between 6 AM and 6 PM.

#### **2. (c)(2) physical location requirements of dealers**

Vermont requires New/Used Car Dealers; Farm Equipment Dealers; Motorized Highway Building Equipment Dealers; Motorcycle/Motor-driven cycle Dealers to occupy a building at least 1,200 square feet in size.

- **Participants Surveyed: 46% of responding jurisdictions reported requiring a particular building size.**

**Recommendation:** To show a dealership's commitment to its consumers and community; as well as meeting DMV representative accessibility to protect consumers from fraud, to aid in regulating and enforcing dealer laws by having access to records, and being able to physically locate a dealership's representatives, the minimum building requirement should not be reduced, and should include Motorboat and Snowmobile dealers.

**Consideration:** For physical location requirements of Motorboat and Snowmobile dealers to occupy a building at least 400 square feet in size used primarily for the dealership.

## RETAIL SALES AND WHOLESALE TRANSACTIONS

*(c)(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold*

### A. Retail Sales

Vermont currently requires new and used car dealers to sell 12 vehicles in a registration year to qualify as a dealer.

- **Participants Surveyed:**
  - **100% of responding jurisdictions indicated that their jurisdiction has a licensed dealer requirement to sell New/Used Cars/Trucks.**
    - **The threshold to determine a licensed dealer requires 4-6 sales were allowed without a license and one State noted an exception for fleet liquidations.**
  - **95% of respondents reported that licenses were required for sellers of new/used motorcycles, ATVs, snowmobiles, and trailers.**

**Recommendations:** Amend existing authorities to include the following:

- New or used car dealers of six or more sales from single person/parties/business or physical address within a 12 month period should be required to be a Vermont licensed cars/trucks dealer, regardless if the seller is the last registered/titled owner.
- Seasonal dealers of snowmobiles; boats; ATV's and trailers three or more sales within a 12-month period should be required to be a Vermont licensed dealer.
- If the required number of sales are not met, the dealer may not re-apply to regain a dealer's license for 12 months following the expiration of the dealership's license.
- Review new penalties for violations associated with recommendations.

**Fiscal Impact:** To be determined but potential increase in collected dealer licensing fees.

### B. Wholesale Transaction/Dealers

Vermont does not provide the availability of a license for Wholesale Dealers (persons exclusively in the business of buying and selling motor vehicles to and from licensed dealers and auctions, where vehicles are sold only to licensed dealers; sales to private individuals prohibited).

- **Participants Survey: 54% of responding jurisdictions said that their jurisdiction offers a Wholesale Dealer's License.**
  - **The survey showed Wholesale Dealers in participating States have very few requirements.**
  - **94% of respondents had no building size requirement.**
  - **100% of respondents had no required number of days to be open for business per year.**

- **Wholesale Dealer plates varied from none issued to no limit.**

After consulting with representatives of the industry, DMV is aware of at least one business interested in the creation of a Wholesale Dealer's License. Individuals acting on behalf of several licensed VT New/Used Car Dealers has raised concerns regarding the use of dealer's plates to purchase vehicles wholesale from other dealers and at auctions. This becomes an enforcement problem in determining misuse of a dealer plates. By creating a Wholesale Dealer License, persons currently acting as such can be clearly identified and legitimized, therefore, they can act as a licensed business with their own insurance.

**Recommendation:** Create a VT Wholesale Dealer's License for persons exclusively in the business of buying and selling motor vehicles to and from licensed dealers and auctions, where vehicles are sold only to licensed dealers; sales to private individuals prohibited. Amend existing authorities to include following:

- A Wholesale Dealer will have building and hours of operation requirements similar to those of a VT licensed Transporter and subject to the same requirements to maintain records and report sales (23 VSA §466 and §467) as New and Used Car Dealers.
- A Wholesale Dealer shall be initially issued (3) Wholesale Dealer Plate to be used only on a vehicle to transport a vehicle to be sold to a location to be sold or in route from purchase by him/her.
- The Wholesale Dealer plate shall not be used for the private use of the dealer, loaned or used for hire.
- A Wholesale dealer must sell a minimum of 100 vehicles per calendar year; a Wholesale Dealer may qualify to be issued additional Wholesale Dealer plates at the Commissioners discretion based on sales.

#### **PERMITTED USE OF DEALER PLATES**

##### ***(c)(4) the permitted uses of dealer plates***

Vermont requires under Title 23 VSA §454 dealer operation of a vehicle owned by the dealership, under their issued dealer plates, for the purpose of testing or adjusting; purchase, sale or exchange, demonstrations, customer repairs, dealer and members of immediate family personal use and funeral or public parades.

**Participants Surveyed:** The survey showed jurisdictions reported have a varying number of dealer plates they issue their licensed dealers.

- **some have no limit**
- **some base the number of issued dealer plates on the number of salespersons a dealer has**
- **most have a formula based on the number of sales, consistent with Title 23 VSA §454, which allows the issuance of 3 initial dealer plates; plus, the Commissioner may allow more based on the dealership's sale volume.**

**Recommendations:** Amend T. 23 VSA §454 to include:

- To further limit the personal use of dealer plates by a dealer’s family and expand the amount of time a customer may operate a “loaner vehicle” on dealer plates, while their vehicle is being repaired by the dealership for up to 14 days.

**Fiscal Impact:** Negligible revenue impact.

### **MOTORBOAT DEALER PLATES**

Vermont currently has no provision to allow motorboat repair facilities to operate an unregistered motorboat on the water for testing purposes.

**Participants Survey:** 87% of the jurisdictions currently have no provisions

DMV has had inquiries from motor boat repair facilities to be issued a “repair plate,” which allows them to legally operate a boat on a Vermont body of water. Although there is no precedent for this type of registration, one could be created modeling the Transporter Dealer License and requirements.

**Recommendation:** Amend existing authorities for use and display of a motorboat dealer plated.

### **ISSUANCE OF VERMONT VEHICLE REGISTRATIONS TO NON-RESIDENTS**

#### ***(c)(5) whether residents of other states should be allowed to register vehicles in Vermont***

Like Vermont, most States within the US have very similar registration requirements for their residents with varying numbers of days after residing in the State. Vermont law prohibits residents of this State to operate a vehicle they own unless it is registered in this State and a Vermont resident who has moved to this State from another, shall register his/her vehicle in this State within 60-days of the move. Vermont law does not prohibit non-residents from applying for and gaining a Vermont vehicle registration.

Through cooperative measures such as Driver License Compact, Commercial Driver License Act and our Department’s participation in the American Association Motor Vehicle Administrators, it seems contradictory to our efforts to aid other State’s residents in circumventing their State’s vehicle registration requirements, a violation of that State’s law.

By accepting applications for registration from Out-of-State residents, the State of Vermont potentially exposes itself to issuing registration certificates and plates for stolen vehicles, as we do not have the ability to properly conduct checks through the National Crime Information Center (NCIC).

**Recommendation:** Based on fiscal impact, further dialogue requiring proof of residency to gain a VT registration should occur with the Administration, Legislature and our Jurisdictional counterparts.

**Fiscal Impact:** Substantial based on the loss of approximately \$6,000,000.00 annually.

*(c)(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.*

#### *Online Sales*

*This is an emerging component of the car buying industry, and no jurisdictions have found a way for checks and balances that allow for online licensed dealers. Vermont licensed dealers who sell vehicles on-line all have a physical location.*