

\*\*\* DRAFT - NOT YET FILED \*\*\*

4501:1-4-01

**Military provisions related to processing motor vehicle salvage dealer, salvage motor vehicle auction and salvage motor vehicle pool applications.**

(A) For the purpose of this rule, the following shall apply:

- (1) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.
- (2) "Armed forces" shall have the same meaning as in section 5903.01 of the Revised Code.
- (3) "Veteran" shall have the same meaning as in section 5903.01 of the Revised Code.

(B) The bureau shall track, monitor, prioritize and expedite each application for a license issued under Chapter 4738. of the Revised Code, from an applicant who is a:

- (1) Veteran;
- (2) Member of the armed forces;
- (3) Spouse of a veteran or member of the armed forces; or
- (4) Surviving spouse of a veteran or member of the armed forces.

(C) Satisfactory evidence that the applicant is a veteran or member of the armed forces for the purpose of determining whether an applicant qualifies for an accommodation under Chapter 5903. of the Revised Code includes the applicant's official military identification card, official DD-214 separation document, or other official military documentation approved by the board. A marriage certificate may be required, in addition to evidence of the spouse's status as a veteran or member of the armed forces, if the applicant is a spouse or surviving spouse of a veteran or member of the armed forces.

(D) In order to expedite the processing of complete applications, especially for individuals facing imminent deployment, the bureau shall accept necessary information in support of the application by electronic and other appropriate means.



4501:1-4-02

**Information to accompany applications for motor vehicle salvage dealer's licenses, salvage motor vehicle pool licenses, or salvage motor vehicle auction licenses.**

[Comment: The current version of applications incorporated by reference in this rule may be obtained at [http://bmv.ohio.gov/bmv\\_forms.stm](http://bmv.ohio.gov/bmv_forms.stm).]

(A) No "Salvage Motor Vehicle Dealer Application," form "BMV 4363" (2/2015), hereinafter referred to as "application," shall be accepted for a motor vehicle salvage dealer's license, salvage motor vehicle pool license or salvage motor vehicle auction license unless accompanied by the following:

(1) Suitable photographs that portray the following:

- (a) The area behind the shielding that is designated for inventory storage;
- (b) The area in front of the shielding;
- (c) The inside of the office showing the designated parts counter and the outside of the office;
- (d) A sign that is permanent and properly maintained displaying the business name in which the application is made. The sign's letters identifying the business name shall be no less than six inches high, unless otherwise approved by the registrar.

(B) Any person listed on the application as a principal officer, manager, or operator of a corporation, trustee of a business trust, or in the case of a partnership or limited liability company, a partner or member, shall submit the results of a criminal history record that is checked on a state-wide basis through the bureau of criminal identification and investigation. The criminal history record shall indicate all of the offenses of which the applicant has been convicted.



4501:1-4-03

**Motor vehicle salvage dealer, salvage motor vehicle pool, or salvage motor vehicle auction required to maintain net worth.**

- (A) No motor vehicle salvage dealer, salvage motor vehicle pool, or salvage motor vehicle auction shall be issued a license or be permitted to operate under such license without a net worth, verifiable upon request by the registrar, in the sum of at least twenty thousand dollars.
- (B) The net worth is determined to be equal to the assets of the firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals, less their liabilities.
  - (1) The term "assets" shall include all money, receivables, prepaid items, and other property, be it real or personal, tangible or intangible;
  - (2) The term "liabilities" shall include all obligations, short term and long term, for which the firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals, is responsible.



4501:1-4-04

**Place of business required for motor vehicle salvage dealers,  
salvage motor vehicle pools and salvage motor vehicle auctions.**

(A) The characteristics of the facilities of motor vehicle salvage dealers, salvage motor vehicle pools and salvage motor vehicle auctions, shall consist of the following:

- (1) A minimum area of a contiguous fifty thousand square feet. For a motor vehicle salvage dealer that has a salvage business that is exclusive to motorcycles, motor scooters, and all purpose vehicles as defined in division (B) of section 4519.01 of the Revised Code, a minimum area of a contiguous five thousand square feet is required. As used in this paragraph, "exclusive" means one hundred per cent of the dealer's business;
- (2) Such area shall be shielded by a fence meeting the following requirements, except where relieved by zoning rules:
  - (a) Having a minimum height of six feet with a maximum of ten feet in height;
  - (b) Such fencing shall shield the facility from ordinary view;
  - (c) Exceptions to this paragraph must be granted in writing, by the registrar of motor vehicles, provided, however, that no exception shall be granted in contravention of the relevant provisions of sections 4737.07 and 4737.09 of the Revised Code.
- (3) A living hedge of equal height and sufficient density year round to prevent view of the facility may be substituted for the fence. A living hedge may exceed the ten-foot height limitation.
- (4) Reasonable consideration shall be given to the topography of the land by enforcement personnel when inspecting the facility for such fence or enclosure, provided, however, that this provision shall not be construed to permit violation of the relevant provisions of sections 4737.07 and 4737.09 of the Revised Code.
- (5) All inventory of the business shall be stored behind the fence or enclosure to promote and preserve a positive visual impact of the salvage facility on the surrounding neighborhood. All activities of the salvage facility shall be conducted in a manner that will sustain a good visual image.
- (6) All non-owned vehicles in storage for the general public shall be held in an area segregated and easily identifiable from the inventory of the licensee. The



licensee shall maintain a separate record of all transactions concerning these vehicles.

(B) The office shall be in a building that is a minimum of two hundred twenty-five square feet and includes the following:.

(1) A clearly identifiable area devoted to sales transactions;

(2) A business telephone in service at all times that shall be answered and identified exclusively for the salvage business. The business telephone number shall be legible and posted in a conspicuous place in public view. A salvage motor vehicle dealer, salvage motor vehicle pool, or salvage motor vehicle auction shall notify the registrar in writing of any change in the business telephone number.

(C) The facility shall be open during the posted business hours and attended by someone who may reasonably assist a retail customer during the posted hours. The business hours shall be legible and posted in a conspicuous place near the entrance of the place of business. A salvage motor vehicle dealer, salvage motor vehicle pool, or salvage motor vehicle auction shall notify the registrar in writing of any change in the posted business.

(D) Each motor vehicle salvage dealer, salvage motor vehicle pool dealer or salvage motor vehicle auction shall post the license in a conspicuous place in the office.

(E) Each motor vehicle salvage dealer, salvage motor vehicle pool, or salvage motor vehicle auction facility shall be equipped with a suitable sign, properly maintained, prominently displayed, and permanent, at or near the entrance of the facility identifying the business in the same name in which the application is filed. Sign letters identifying the business shall be no less than six inches high unless otherwise approved by the registrar of motor vehicles.

(F) No two salvage motor vehicle dealers may operate from the same location unless they agree to be jointly, severally and personally liable for all liabilities arising from their operation at the same location. Such agreement shall be filed with the bureau of motor vehicles and made a part of the articles of incorporation of each such dealer filed with the secretary of the state of Ohio. The board may revoke the license of any class of dealers referred to in this rule who operate from the same location without the agreement specified in this paragraph.



4501:1-4-05

**Method of instituting complaints.**

The board may, upon its own motion, investigate any license holder for alleged violations of law or of the rules of this board. If such investigation discloses any such violations, such license holder shall be informed that reasonable grounds for suspension or revocation of the license exist.

The board shall, upon verified written complaint of any person filed with the secretary or acting secretary of the board, investigate as to the matters complained of, and if such investigation develops any apparent violation of the laws or of the rules of this board, such license holder shall be informed that reasonable grounds for suspension or revocation of the license exist.



4501:1-4-06

**Notice of hearing.**

When in the opinion of the board, reasonable grounds for issuance of a citation exist, i.e., violation of the rules governing the salvage motor vehicle dealer, salvage motor vehicle pool, or salvage motor vehicle auction dealer or has been convicted of committing a felony or violating any law which in any way relates to the theft of motor vehicles, the secretary or acting secretary of the board shall send a notice of opportunity for hearing by certified mail, return receipt requested, to the license holder cited at the address specified in the application for license. Such notice shall specify the alleged violation of the Revised Code or the rules of the board, and shall apprise the licensee of his/her right to request an adjudicatory hearing on the matter.



4501:1-4-07

**Date, time and place of hearing.**

If requested by the license holder in writing, within thirty days after mailing of the notice of opportunity for hearing, the board must set the date, time and place of hearing, and immediately notify the license holder. The date for such hearing shall be within seven to fifteen days after the party has requested a hearing. If the license holder fails to respond to notice of opportunity for hearing within thirty days, the board may consider the charges as proven and may, in its discretion and without a hearing, suspend or revoke the license.



4501:1-4-08

**Continuances.**

- (A) Any hearing may be postponed or continued by the board on its own motion, or within the discretion of the board at the request of the license holder for such period of time and upon such terms as the board may prescribe.
- (B) The license holder requesting continuances shall submit to the board, at least five days prior to the date set for the hearing, a written request, stating the reasons for the desired continuance. Verified statements setting out the grounds for the continuance shall be filed with the request.



4501:1-4-09

**Stenographer's record.**

At any hearing before the board, the record of which may be the basis of an appeal to a court, a stenographic record of the testimony and other evidence submitted shall be taken at the expense of the board.



4501:1-4-10

**Hearing procedure.**

In all hearings before the board, the procedure shall be as follows:

- (A) The attorney general concisely may state his case, and briefly may state his evidence to sustain it.
- (B) The license holder, or his attorney, may then briefly state his case, and briefly may state his evidence in support of it.
- (C) The attorney general first must produce his evidence, and the license holder or his attorney must then produce his evidence.
- (D) The attorney general may offer evidence in rebuttal.
- (E) The board may in its discretion hear arguments.
- (F) The board may in its discretion request or permit the filing of briefs.



4501:1-4-11

**Evidence.**

- (A) In all hearings before the board, the introduction of evidence shall be governed in general by the rules of evidence.
- (B) The board may call the license holder to testify under oath as upon cross-examination. The license holder may call the acting secretary of the board to testify under oath as upon cross-examination.



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4501:1-4-12

**Briefs.**

Briefs shall be clearly typewritten or photocopied. The party filing the brief shall furnish the opposite party or his attorney with one copy and file with the secretary or acting secretary of the board four copies of such.



4501:1-4-13

**Decision of the board.**

- (A) After submission of the case to the board, the board may retire and deliberate immediately or take the case under advisement.
- (B) The decision of the board shall be written and a copy of such decision shall be mailed to the license holder by certified mail, return receipt requested, and a copy mailed to the attorney for the license holder, if any. A copy shall be forwarded to the attorney general.



4501:1-4-14

**Rehearings.**

- (A) Should the license holder desire a rehearing before the board, such license holder shall file his application for rehearing in writing with the secretary or acting secretary of the board, within fifteen days after receipt of the decision of the board and shall accompany the application with a verified statement setting out the grounds on which such rehearing is sought.
- (B) Grounds for rehearing shall be for the following causes only:
- (1) For mistake, neglect or omission on the part of the board, or irregularity in obtaining a favorable decision or order on the part of the successful party.
  - (2) For fraud practiced by the successful party in obtaining a favorable order or decision.
  - (3) For unavoidable casualty or misfortune, preventing the license holder from prosecuting his case before the board.
  - (4) When a decision or order was obtained, in whole or a material part by false testimony on the part of the successful party, or any witness in his behalf, which ordinary prudence could not have anticipated or guarded against.
  - (5) Newly discovered evidence, material for the license holder applying for rehearing, which with reasonable diligence could not have been discovered and produced at the hearing and which is not merely corroborative of evidence produced or offered at the hearing, and the license holder in his application for rehearing shall state the nature of such evidence.



4501:1-4-15

**Appeals from registrar's order.**

- (A) When the registrar refuses to issue, renew, or transfer any license, he shall by certified mail, return receipt requested, send to the applicant so refused, notice of such order at the address stated in the application and certify his findings and final order to the board. The notice to the applicant shall set forth the reasons for the registrar's action, refer to the statute or rule directly involved, and state that the applicant has a period of thirty days from the time of mailing of the notice, to file his appeal with the board.
- (B) Such appeal must be by petition in writing and verified under oath by the applicant. The petition in appeal must set forth the reasons for such appeal and the reason why the order of the registrar is in error. The original and at least one copy shall be filed with the secretary or acting secretary of the board.
- (C) After receipt of such petition in appeal, the secretary or acting secretary of the board shall by certified mail, return receipt requested, at least fifteen days prior to the date of such hearing, send a notice of hearing to the appellant. Such notice shall contain the date, time and place of hearing of the appeal.
- (D) All the rules of practice and procedure as prescribed in Chapter 119. of the Revised Code pertaining to date, time and place of hearing continuances, stenographic record, hearing procedure, evidence, briefs and decision of the board shall apply to hearing on appeal from the registrar's order in the same manner as other hearings before the board.



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4501:1-4-16

**Docket.**

The secretary or acting secretary of the board shall keep a docket and enter into such docket all cases before the board. Said docket shall be open to public inspection.



4501:1-4-17

**Notice of public hearing regarding adoption, amendment, or rescission of a rule.**

- (A) A public notice issued by the motor vehicle salvage dealer's licensing board of a hearing to consider adopting, amending or rescinding a rule which the board is authorized by law to do, shall be published at least once in the register of Ohio, at least thirty days prior to the date set for a public hearing.
- (B) The motor vehicle salvage dealer's licensing board shall be authorized to give additional notice of such public hearing as it deems necessary; however, the giving of such additional notice shall not be mandatory, and failure to give notice by any means other than as specified in paragraph (A) of this rule shall not in any way invalidate any action which may be taken by the motor vehicle salvage dealer's licensing board.
- (C) The public notice shall specify the date, time and place of any hearing relative to the proposed rule change and shall include:
  - (1) A statement of the board's intention to consider adopting, amending or rescinding a rule and the purpose or reason therefore;
  - (2) A summary of the proposed rule, amendment or rescission or a general statement as to the subject to which it relates.
- (D) Pursuant to section 119.03 of the Revised Code, a copy of the public notice shall be provided by the board to any person who requests a copy and pays the cost of copying and mailing.



4501:1-4-18

**Notice of meetings.**

- (A) Any person may obtain information regarding the time and location of all regularly scheduled meetings and information regarding the time, location, and purpose of any special meetings of the board, its subcommittees, and special committees.

Requests for notice of meetings may be submitted to the secretary of the motor vehicle dealers board in written form or may be made in person during regular business hours.

- (B) Written requests for notice of meetings may be general in nature or may be specific to meetings where a particular type of business will be considered. Such requests shall include the name of the person submitting the request, and whether notice is sought for all or specified types of meetings. Notice requests submitted pursuant to this paragraph shall include either:

(1) Fifteen self-addressed envelopes with appropriate postage affixed;

(2) A reasonable postage fee as determined annually by the board.

- (C) The board shall provide twenty-four hour advance notice of special meetings of the board, subcommittees, and special committees to representatives of news organizations who have submitted written requests for such notice to the secretary of the motor vehicle dealers board. In the event that an emergency meeting is scheduled and twenty-four hour notice is not possible, the board shall notify those representatives of news organizations who have requested notice in accordance with this paragraph, as soon as is reasonably possible after such meeting is scheduled. The notice requested by representatives of new organizations pursuant to this paragraph may be general or specific in nature.



4501:1-4-21

**Minutes of meetings.**

The unapproved minutes of a regularly scheduled or special meeting shall be recorded and open to public inspection within ten days after their recordation. Within ten days after their approval by the board, the approved minutes of a regularly scheduled or special meeting shall be substituted for the unapproved minutes, and the former shall be open for public inspection during regular working hours.

All records of meetings will be open to the public for inspection during regular business hours which are eight a.m. to four-thirty p.m. at the "Bureau of Motor Vehicles, 1970 West Broad Street, Columbus, Ohio 43223."



4501:1-4-22

**Nature of and length of time records will be maintained.**

Persons licensed under Chapter 4738. of the Revised Code shall maintain a record of the following:

(A) All salvage motor vehicles purchased. This record shall include, but not be limited to:

- (1) Name of the previous owner.
- (2) Serial number (vehicle identification number).
- (3) Title number.
- (4) Year and make of said vehicle.
- (5) Date and county where title was surrendered.

(B) All salvage motor vehicles and salvage motor vehicle parts sold. Sales invoice shall describe:

- (1) Item(s) sold.
- (2) Name and address of purchaser, except on retail parts only sales.
- (3) Sales price.

(C) In addition, each retail sale of a salvage motor vehicle shall:

- (1) Be preceded by a written instrument or contract that shall contain all the agreements of the parties and shall be signed by the authorized purchaser.
- (2) The dealer shall, upon execution of the agreement or contract and before the delivery of the motor vehicle, deliver to the authorized purchaser a copy of the agreement or contract that shall clearly describe the motor vehicle sold to the authorized purchaser and give the following information:
  - (a) The amount paid down by the authorized purchaser;
  - (b) The amount credited to the authorized purchaser for any trade-in and a description thereof;



- (c) The amount of any other charge and a specification of its purpose;
  - (d) The net balance due from the authorized purchaser;
  - (e) The terms of the payment of the net balance.
- (D) Records must be maintained for a period of three years by those holding a license granted under Chapter 4738. of the Revised Code.
- (E) Notwithstanding paragraph (A)(5) of this rule, all persons licensed under Chapter 4738. of the Revised Code, shall retain on their premises, the title to all vehicles offered for sale in the conduct of their business.
- (F) All salvage motor vehicle auctions and salvage motor vehicle pools licensed under Chapter 4738. of the Revised Code, shall also comply with the provisions as set forth in section 4738.021 of the Revised Code.



4501:1-4-24

**Disqualifying offenses.**

- (A) "Disqualifying offense" means a conviction or plea of guilty to a crime of moral turpitude as defined in section 4776.10 of the Revised Code or any felony offense that has a direct bearing on an individual's fitness or ability to perform the duties or responsibilities related to the business of a motor vehicle salvage dealer, salvage motor vehicle auction, or salvage motor vehicle pool.
- (B) For the purpose of licenses issued pursuant to Chapter 4738. of the Revised Code, disqualifying offenses shall include, but not limited to the following:
- (1) Robbery as set forth in section 2911.02 of the Revised Code;
  - (2) Aggravated burglary as set forth in section 2911.11 of the Revised Code;
  - (3) Burglary as set forth in section 2911.12 of the Revised Code;
  - (4) Breaking and entering as set forth in section 2911.13 of the Revised Code;
  - (5) Theft of a motor vehicle as set forth in section 2913.02 of the Revised Code;
  - (6) Passing bad checks as set forth in section 2913.11 of the Revised Code;
  - (7) Forgery as set forth in section 2913.31 of the Revised Code;
  - (8) Tampering with records as set forth in section 2913.42 of the Revised Code;
  - (9) Securing writings by deception as set forth in section 2913.43 of the Revised Code;
  - (10) Identity fraud as set forth in section 2913.49 of the Revised Code;
  - (11) Receiving stolen property as set forth in section 2913.51 of the Revised Code;
  - (12) Theft, a felony of the fifth degree regardless of the value of property as set forth in section 2913.71 of the Revised Code;
  - (13) Tampering with identifying numbers to conceal the identity of a vehicle or part as set forth in section 4549.62 of the Revised Code.