# Manufacturing & Selling Motor Vehicles in Colorado

Any company in or outside Colorado which sells or distributes new motor vehicles to dealers in Colorado or which employs representatives operating in Colorado is required to have a Colorado manufacturer license.

## Definitions

### Motor Vehicle

A motor vehicle is defined as every self-propelled vehicle intended primarily for use and operation on the public highways. It includes every vehicle attached to or drawn by a self-propelled vehicle. A motor vehicle includes automobiles, motorcycles, motor-homes, recreational vehicles, semitrailers, trailers and trucks. Exceptions are: agricultural equipment such as farm tractors, special mobile machinery or self-propelled construction equipment, all-terrain vehicles and motorized bicycles as defined in Section 8-47-1-102(47)(b). Travel trailers more than 40’ in length or more than 8’ wide are considered manufactured homes and are also exempt.
{Reference 12-6-102 (12) C.R.S.}

### Manufacturer

A manufacturer is any person or business (resident or nonresident) manufacturing or assembling new motor vehicles being sold in Colorado. {Reference 12-6-102 (11) C.R.S.}

Some manufacturers are exempt from the manufacturer licensing requirements. Any company which **only** manufactures utility trailers weighing less than 2,000 lbs. and does **not** manufacture any other type of Motor Vehicle does not have to obtain a manufacturer's license. However, these exempt manufacturers must obtain a valid Colorado dealer's license to sell their trailers in Colorado to dealers or the general public.

Exempt manufacturers must request this exemption in writing using the form shown in Appendix A. The form can be obtained from the Auto Industry Division, 1881 Pierce Street, Lakewood, CO 80214. The form is available on the Internet at www.mv.state.co.us/dealer.html

**Other Licenses Required**

A manufacturer that intends to have zone or branch offices or utilize a distributor, may be subject to additional licensing requirements:

- **Factory Branch:** Any branch or zone office maintained by a manufacturer for the purpose of selling new motor vehicles to Colorado distributors and dealers and for directing or supervising, in whole or in part, its representatives who contact Colorado dealers.
- **Distributor:** A company in or outside Colorado which sells or distributes new motor vehicles to dealers in Colorado or which employs representatives operating in Colorado. A distributor cannot grant franchises without the manufacturer's approval. The granting of such approval must be in writing and attached to the distributor's application.
- **Distributor Branch:** Any branch office maintained by a distributor for the sale of motor vehicles to dealers or for directing or supervising, in whole or in part, its distributor representatives who contact Colorado dealers.
- **Representative:** Any person employed by a manufacturer, distributor or their branches for the purpose of making or promoting the sale of its motor vehicles to dealers in Colorado or for supervising or contacting its Colorado dealers or prospective dealers.

## License Year

A license for manufacturers, distributors and their representatives is valid one year following the month of issuance and must be renewed from year to year.

# Licensing Procedures

## For Manufacturers

The Executive Director of the Department of Revenue has the authority to approve or deny any application for a manufacturer license. A licensed manufacturer is only authorized to sell motor vehicles to licensed dealers in Colorado. Only licensed franchised dealers can enter into retail transactions for new motor vehicles.

If the manufacturer intends to sell to the retail public, a Colorado motor vehicle dealer license is also required. To obtain a Colorado motor vehicle dealer license, contact the Auto Industry Division and request a dealer license application packet.

1. **Forms**

   A completed Form DR 2635 Manufacturer/Distributor License Application must be submitted to the Auto Industry Division. Applications are usually processed within two weeks of receipt.

   The application form requires manufacturers and distributors to appoint an agent for the service of process in the State of Colorado. If your company is in Colorado, you can designate yourself. If your company is outside Colorado, ***you must designate an agent within Colorado.*** If you wish, you may appoint one of your Colorado dealers or the Executive Director of the Colorado Department of Revenue as your agent for service of process. The mailing address of the Executive Director is in care of Auto Industry Division, 1881 Pierce Street, Lakewood, CO 80214. If the Executive Director is appointed and is later served with process, it will be mailed within 2 days by certified mail to the licensee's address as shown on our files.

2. **Fees**

   Fees are subject to change each July 1.

   See the Fee schedule for the amount due.

   Payment of license fees for the manufacturer/distributor and its representatives (if applicable) should be in the form of one check made payable to: COLORADO DEPARTMENT OF REVENUE.

3. **Attachments**

   The following documents must be attached to your application:

   a. Any vehicle warranties.
   b. Any "delivery & preparation obligations" of the franchised dealers.
   c. A certified copy of the manufacturer or distributor's typical written agreement with franchised dealers.
   d. A copy of the manufacturer's certificate of origin.

   Any changes in the above standard written documents during the license year should be mailed to this office in a timely manner.

   If there are NO written warranties, dealer agreements or preparation obligations, the manufacturer should provide a written statement to that effect. State law does not mandate such documents and their absence will not affect the processing of your license. {Reference 12-6-114 C.R.S.}

4. **Renewing your license, if approved.**

   All licenses expire yearly. Renewal applications are mailed approximately 2 months prior to the license expiration date. Renewal fees are set by the Motor Vehicle Dealer Board.

5. **Appointment of Dealers.**

   Prior to franchising a dealer, the manufacturer should verify the licensed status of the dealer by requesting a copy of the current license or a copy of the main application form (DR 2109), pending Board approval. Non-licensed dealers cannot be franchised. A conditional franchise can be granted to a dealer **applicant** contingent upon Board approval of the dealer license. If the Colorado dealer is currently licensed as a

**used** motor vehicle dealer, he or she will need to convert the license to "franchised" upon the granting of the franchise. The used dealer should contact our office for instructions and forms.

After entering into a franchise agreement with a Colorado dealer, the manufacturer must immediately notify this office in writing of the appointment. The dealer's license record is then updated with the manufacturer's franchise code.

### For Representatives

Employees of a manufacturer or distributor and their branches **who interact with Colorado dealers** must be licensed. If the representatives report directly to the manufacturer or distributor, they are licensed to the manufacturer/distributor. If they report to a factory branch, they are licensed to the branch. Licensing requirements for representatives include:

1. **Forms**

   A completed Form DR 2662 Representative License Application must be submitted to the Auto Industry Division. Applications are usually processed within two weeks of receipt.

2. **Fees**

   Fees are subject to change each July 1. See the fee schedule for the amount due.

3. **Renewal**

   All licenses expire yearly. Renewal applications for representatives are mailed to the manufacturers and distributors approximately 2 months before the license expires. Renewal fees are set by the Dealer Board.

   Payment of license fees for representatives should be in the form of one check made payable to the Colorado Department of Revenue.

## Plate Affidavit

To obtain manufacturer plates for the 2000-2001 license year, submit a completed "Application for Manufacturer Plates", form DR 2670. Manufacturer plates will be issued only to licensed manufacturers and their licensed factory branches within Colorado. All application forms must contain the Colorado manufacturer's license number for the manufacturer or factory branch.

The vehicles bearing manufacturer plates must be owned and titled in Colorado by the manufacturer or factory branch. A copy of the Colorado title receipt(s) must be attached to the application for manufacturer plates.

## Illegal Acts by a Manufacturer

Disciplinary action can be taken against the license of a manufacturer, distributor, factory branch or distributor branch for illegal acts. A license may be denied, revoked or suspended on the grounds of unfitness, material misstatement in an application, willful failure to comply with Colorado laws and regulations, or engaging in any illegal business practice.

A representative's license can be denied, suspended or revoked for illegal acts. Some examples of illegal activities are:

- Making a material misstatement in a license application.
- Willfully failing to comply with licensing laws and regulations.
- Indulging in an unconscionable business practice.
- Coercing or attempting to coerce any dealer to accept delivery of any motor vehicle, parts or accessories, or other commodities or services which have not been ordered.
- Coercing or attempting to coerce any motor vehicle dealer to enter into any agreement to

do any act unfair to said dealer by threatening cancellation of the dealer's franchise or,

- Withholding, or threatening to withhold, reducing or delaying, without just cause, an order for motor vehicles, parts or accessories or any other commodities or services which have been ordered by the dealer.
- Engaging in any illegal business practice.

Complaints filed against any licensee will be investigated by the Executive Director. If it appears that a violation of law or regulation has occurred, a Departmental hearing may be scheduled.

## Additional Requirements of Licensed Manufacturers

Once you have obtained your Colorado manufacturer's license, you will need to satisfy other important requirements as part of the manufacturing process. Some of these requirements are governed by both federal and state regulation. The following are basic requirements and the source of more detailed information.

1. **Manufacturer's Certificate of Origin (MCO)**

   A Manufacturer Certificate of Origin or MCO is a document required from the manufacturer for each vehicle produced. It is considered the "birth certificate" for a vehicle and is used to transfer ownership of the vehicle. (Please refer to Appendix D for an example.) The MCO shows the vehicle make, model, body type, date of manufacture, or date of transfer from manufacturer, model year, shipping weight, 17-character vehicle identification number, and manufacturer's invoice number.

   If the vehicle is a truck or commercial vehicle, the gross weight rating is also included. If the vehicle is self-propelled, the MCO shall also include the number of cylinders of the engine and the S.A.E. horsepower rating. The MCO also provides space for the name and address of the dealer to whom transferred, as well as one or more assignment sections for transfer from dealer to purchaser. The assignment sections must provide space for the notation of lien information.

   MCOs must meet the American Association of Motor Vehicle Administrators (AAMVA) standards (see Appendix D). MCO vendors have been instructed not to sell MCOs to anyone who cannot show proof they are a licensed manufacturer.

   Any duplicate certificates of origin issued by the manufacturer and used to replace the original certificate of origin must incorporate the same security features as the original. The duplicate shall state clearly on its face that it is a "DUPLICATE." The vehicle and owner information on the duplicate shall be identical to the original. Any discrepancy, except date issued, shall invalidate the duplicate.

   Anyone who manufactures or assembles a new vehicle shall furnish a proper MCO to the dealer to whom it is delivered. The MCO is required when the new vehicle is titled and registered.

   **Suggested MCO Vendors**

   A professional printer may be able to supply MCOs, or consult the Yellow Pages of the phone book under "Business Forms."

   The AAMVA's specifications for MCOs are shown in Appendix D. An MCO vendor must meet all specifications and requirements. Each MCO must be an original and cannot be photocopied. MCOs not meeting the required specifications will be rejected.

2. **Federal Requirements**

   All manufacturers of motor vehicles, including trailers, must comply with Federal Motor Vehicle Safety Standards and regulations. Failure to comply with these standards and regulations can result in a fine not to exceed $1,000 for each violation or $800,000 for any series of violations. Appendix E has more detailed information on these requirements and whom to contact.

3. **Camper Certification**

   Camper trailers and coaches exceeding 40' in length or 8' in width are considered "manufactured housing" and are **not** motor vehicles for manufacturer licensing purposes. However, if they are sold or offered for sale in Colorado, they must bear the insignia of approval issued by the Division of Housing. No camper trailer or coach bearing an insignia of approval shall in any way be modified prior to sale or as a condition of sale unless approval is first obtained from the Division of Housing.

   For additional information on camper certification, call the Colorado Division of Housing at (303) 866-2033 or access their website at www.dola.state.co.us/doh/doh.htm

## Submitting The Application Package

The application packet may be delivered in person to the Auto Industry Division, 1881 Pierce Street in Lakewood or mailed to the Department of Revenue, Auto Industry Division, Denver, CO 80261-0016.

## Additional Information

For additional information contact the AID at (303) 205-5604. The AID home page located at www.mv.state.co.us/dealer.html has information available for consumers and dealers. Walk-in assistance is available at the Department of Revenue, 1881 Pierce Street, Lakewood.

For questions about MCOs, VINs, or safety requirements, refer to the Appendices and contact the referenced agency.

## New Business Start-Ups

The Department of Revenue's Taxpayer Service Division, the Department of Regulatory Agencies and the federal Small Business Administration, offer one-stop assistance to persons who want to start a new business. The New Business office is located in the World Trade Center, Suite 805, 1625 Broadway, Denver. They are open Monday through Friday, 8 am to 4:30 p.m. Their phone number is (303) 592-5920 or (800) 333-7798.

This office provides information in a number of areas, including trade name registration, sales tax licenses, employee withholding tax, unemployment insurance, worker's compensation insurance, licenses and permits. The staff also offers management and financial referral assistance.

Additional information regarding starting a new business is available on FYI General 14 "Opening a Business in Colorado."

DR 2900 (08/99)
**COLORADO DEPARTMENT OF REVENUE**
AUTO INDUSTRY DIVISION
DENVER CO 80261-0016
(303) 205-5604

# EXEMPT MANUFACTURER REQUEST FORM

# APPENDIX A

| | | | | | |
|---|---|---|---|---|---|
| License Name/DBA | | | | Colorado Dealer Number | |
| Business Address | | City | | State | Zip |
| Mailing Address | | City | | State | Zip |
| Contact Person/Department | Telephone | Business Type: ☐ Individual ☐ Corporation ☐ Partnership ☐ Ltd Liab. Company ☐ Ltd Liab. Partnership | | | |

Description of trailers manufactured in Colorado (Make, model, weight, number of axles, etc.)

**12-6-102 (11) "Manufacturer"** means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that "manufacturer" shall not include:

**(a)** Any person who only manufactures utility trailers which weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

**(b)** Any person who is a licensed dealer selling motor vehicles which he has manufactured.

**12-6-102 (12) "Motor vehicle"** means every vehicle intended primarily for use and operation on the public highways which is self-propelled and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power but which is designed to be attached to or become a part of or to be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

**42-1-102 (111)"Utility trailer"** means any wheeled vehicle weighing two thousand pounds or less, without motive power, which is designed to be drawn by a motor vehicle and which is generally and commonly used to carry and transport personal effects, articles of household furniture, loads of trash and rubbish, or not to exceed two horses over the public highways.

**The undersigned owner or corporate officer hereby declares under penalty of perjury in the second degree that the above-named manufacturer is exempt from manufacturer licensing in the State of Colorado under the provisions of Section 12-6-102(11) of the Colorado Revised Statutes. The undersigned agrees to maintain a valid Colorado motor vehicle dealer's license in accordance with applicable laws. If and when the exemption conditions are no longer applicable, the undersigned agrees to complete and file an application for a manufacturer's license. The undersigned understands that the manufacture, distribution and sale of its vehicles outside Colorado are subject to the laws of each state.**

| | |
|---|---|
| Signature | Date |
| Printed Name | Title |

**Reviewed and approved by:** ____________________

**Manufacturer Exempt No:** ☐ Date: ____________

# APPENDIX B

## Colorado Motor Vehicle Manufacturer Timeline

The following timelines are provided to give you an idea of the amount of time that may be required. However, please keep in mind that they are estimates - not fixed times.

| Responsible Agency | Task | Week 1 | Week 2 | Week 3 | Week 4 | Week 5 | Week 6 | Week 7 | Week 8 |
|---|---|---|---|---|---|---|---|---|---|
| State of Colorado<br>Auto Industry Division<br>1881 Pierce Street, Rm 142<br>Lakewood, CO<br>80214 | **Apply for/ Receive License** | | | | | | | | |
| Qualified full-service Printer | **Order MCOs** | | | | | | | | |
| Society of Auto Engineers<br>Attn: WMI Coordinator<br>400 Commonwealth Drive<br>Warrendale PA 15096-0001 | **Obtain WMI from SAE** | | | | | | | | |
| Administrator<br>National Highway Safety Administration<br>Attn: VIN Coordinator, NEF-01, Rm. 5321<br>400 Seventh Street, SW<br>Washington, D.C. 20590 | **Submit VIN to NHTSA** | | | | | | | | |

# APPENDIX C

## Colorado Motor Vehicle Safety Law

In addition to federal safety requirements, manufacturers and dealers of motor vehicles must be aware of and comply with Colorado statutes regarding safety.

A good place to begin would be **Article 4 of Title 42 of the Colorado Revised Statutes, *Regulation of Vehicles and Traffic*.** Manufacturers should be aware of the basic safety and emissions equipment required under these laws.

More specific questions can be addressed to:

Colorado State Patrol
Motor Carrier Safety Section
710 Kipling Suite 309
Denver, CO 80215
(303) 273-1875

# APPENDIX D
# Sample of a Manufacturer's Certificate of Origin (MCO)

CERTIFICATE OF ORIGIN FOR A VEHICLE

DATE

YOUR LOGO HERE
(OPTIONAL)

INVOICE NO.

VEHICLE IDENTIFICATION NO.

YEAR

MAKE

BODY TYPE

SHIPPING WEIGHT

H.P. (S.A.E.)

G.V.W.R.

NO. CYLS.

SERIES OR MODEL

I, the undersigned authorized representative of the company, firm or corporation named below, hereby certify that the new vehicle described above is the property of the said company, firm or corporation and is transferred on the above date and under the Invoice Number indicated to the following distributor or dealer.

NAME OF DISTRIBUTOR, DEALER, ETC.

DEALER — FINANCE INSTITUTION

THIS SPECIMEN OF THE UNIFORM CERTIFICATE OF ORIGIN IS FOR COMPARISON AND COMPUTER TESTING.

If the vehicle described hereon is a motor home the undersigned certifies that it is equipped with at least four of the following life support systems; cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a potable water supply system including a faucet and sink, separate 110-115 volt electrical power supply and/or an LP gas supply, all of which meet the ANSI A119.2 standards.

It is further certified that this was the first transfer of such new motor vehicle in ordinary trade and commerce.

MANUFACTURER'S NAME
(REQUIRED)

FACSIMILE SIGNATURE
(OPTIONAL)

BY:

(SIGNATURE OF AUTHORIZED REPRESENTATIVE) (AGENT)

ISSUING LOCATION
(OPTIONAL)

CITY - STATE

TD0000000

# MCO Printing Specifications

The following specifications must be met when printing MCOs. They are required by the American Association of Motor Vehicle Administrators (AAMVA). AAMVA may be contacted at (703) 522-4200.

I. **SECURITY FEATURES** -- All "Certificates of Origin" should contain the following nine security features:

   A. **Paper**

      1. **Sensitized Security Paper** - paper that is reactive to chemicals commonly used to alter documents.

      2. **Non-optical Brightener Paper** - paper without added optical brighteners which will not fluoresce under ultraviolet light.

   B. **Engraved Border** - a border produced from engraved art work which shall appear on the front of the document.

   C. **Prismatic** - rainbow printing which is used as a deterrent to color copying, and/or

      **Copy Void Pantograph** - the word "void" appears when the document is copied.

   D. **Complex Colors** - colors which are developed by a mixture of two or more of the primary colors, (red, yellow or blue) and black if required.

   E. **Erasable Fluorescent Background Inks** - fluoresces under ultraviolet light and reacts to any attempt to erase in such a manner as to be immediately detectable.

   F. **Background Security Design** - a repetitious design consisting of a pattern which hinders counterfeiting efforts.

   G. **Microline** - a line of small alpha characters in capital letters which requires a magnifying glass to read.

   H. **Consecutively numbered** - documents that contain a number which is consecutively numbered for control purposes.

   I. **Security Thread** - with or without watermark and/or

   J. **Intaglio Print** - with or without latent image.

II. **DOCUMENT SIZE:** "Certificates of Origin" shall be seven (7) inches by eight (8) inches.

III. **PAPER STOCK:** Sixty (60) pound offset or equivalent durability.

IV. **CONSTRUCTION:** Unless otherwise specified by the user, the forms should be constructed and fan-folded for use on high-speed pin-fed computer printer and/ or continuous typewriters.

V. **LAYOUT:** Test matter space for 1/10" horizontal and 1/16" deep characters per AAMVA H-12 policy for standard format.

VI. **FACILITY SECURITY:** To insure the integrity of the manufacturers "Certificate of Origin," the user should require the vendor to maintain secure printing and storage facilities. [*Revised 1990*]

For additional information on Colorado titling procedures, contact the Titles Section of the Colorado Motor Vehicle Group at (303) 205-5608.

# APPENDIX E

# National Highway Traffic Safety Administration Requirements

The National Highway Traffic Safety Administration (NHTSA) requires manufacturers to develop a Vehicle Identification Numbering scheme in accordance with federal specifications.

## Vehicle Identification Numbers (VINs)

The Vehicle Identification Number (VIN) is the unique number assigned to each vehicle during production by the manufacturer for purposes of identification and inventory control.

The federal VIN requirements apply to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles and motorcycles.

## Steps in Constructing a VIN For New Manufacturers

1. Obtain a World Manufacturer Identifier (WMI): Contact the Society of Automotive Engineers Land and Sea Division (SAE) for assignment of a unique identifier (no charge), by writing or calling:

   Society of Auto Engineers / Attn: WMI Coordinator
   400 Commonwealth Drive,
   Warrendale, PA 15096-0001
   Phone: (724) 772-8511
   FAX: (724) 776-0243
   Website: www.sae.org

2. Give the WMI coordinator your company's contact person's name; the name, address, phone number, FAX number, the type of vehicle and trade name, and whether you build less than or more than 500 such vehicles a year.

## VIN Schemes Must Be Reported to NHTSA

After receiving your packet from NHTSA and completing the 17-digit VIN scheme, you must report the information necessary to decipher all characters in the VIN to the National Highway Traffic Safety Administration. Only a sample VIN with an explanation of what each digit means must be submitted. This information is only required once. There are no annual reporting requirements. However, any amendments to the original submission must be noted in a letter to the agency.

The agency does not routinely provide written approval of VIN submissions, but will contact the manufacturer should any corrections be required. When submitting VIN information, manufacturers should include a phone number to facilitate communications.

## Additional Information

If you contact the agency shown below, they will send you a packet with complete information on VINs and provide phone numbers you can call for additional information.

Administrator, National Highway Traffic Safety Admin. / Attn: VIN Coordinator-NEF-01
400 Seventh Street, S.W., Room 5321,
Washington, DC 20590
Website: www.nhtsa.dot.gov

# APPENDIX F

# Manufacturer’s Abstract of Colorado Motor Vehicle Industry Laws & Regulations

**(Title 12, Article 6, Part 1, Colorado Revised Statutes and 1 Code of Colorado Regulations 205-1)**

## Introduction

This reprint of selected statutory and regulatory sections is not meant to be a comprehensive reference. Everyone is encouraged to seek competent legal counsel for legal advice and guidance.

State laws adopted by the Colorado legislature are shown in regular print. The regulations adopted by the Director of the Department of Revenue are shown in italics.

## Part One

**12-6-102 Definitions.** As used in this part 1, unless the context otherwise requires:

**(3) “Coerce”** means the failure to act in good faith in performing or complying with any terms or provisions of the franchise or agreement; except that recommendation, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

**(4) “Community”** means a franchisee’s area of responsibility as set out in the franchise.

**(4.5) (a) "Custom trailer"** means any motor vehicle which is not driven or propelled by its own power and is designed to be attached to, become a part of, or be drawn by a motor vehicle and which is uniquely designed and manufactured for a specific purpose or customer.

**(b) "Custom trailer"** does not include manufactured housing, farm tractors, and other machines and tools used in the production, harvest, and care of farm products.

**(5) “Distributor”** means a person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

**(6) “Distributor branch”** means a branch office maintained by a distributor or wholesaler for the same purposes as a factory branch is maintained.

**(7) “Distributor representative”** means a representative employed by a distributor, branch, or wholesaler.

**(7.5) “Executive director”** means the executive director of the department of revenue charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, distributor branches, distributor representatives, factory branches, factory representatives, and manufacturers.

**(8) “Factory branch”** means a branch office maintained by a person who manufactures or assembles motor vehicles for the sale of motor vehicles to distributors, for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising in whole or in part its representatives.

**(9) “Factory representative”** means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch for the purpose of making or promoting the sale of its motor vehicles or for supervising or contacting its dealers or prospective dealers.

**(9.5) “Fire truck”** means a vehicle intended for use in the extermination of fires, with features that may include, but shall not be limited to, a fire pump, a water tank, an aerial ladder, an elevated platform, or any combination thereof.

**(10) “Good faith”** means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party. Recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute a lack of good faith.

**(10.5) "Line-make"** means a group or series of motor vehicles that have the same brand identification or brand name, based upon the manufacturer's trademark, trade name or logo.

**(11) "Manufacturer"** means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused motor vehicles; except that "manufacturer" shall not include:

**(a)** Any person who only manufactures utility trailers that weigh less than two thousand pounds and does not manufacture any other type of motor vehicle; and

**(b)** Any person, other than a manufacturer operating a dealer pursuant to section 12-6-120.5, who is a licensed dealer selling motor vehicles that such person has manufactured.

***REGULATION 12-6-102 (11).***
***All manufacturers doing business in the state of Colorado, irrespective of whether they maintain or have places of business herein, must be licensed as such.***

***The sale of any new and unused motor vehicles, either directly or indirectly in the state of Colorado shall constitute doing business in the state by the manufacturer and shall subject such manufacturer to the requirements of this article.***
***(1 C.C.R. 205-1)***

**(12) "Motor vehicle"** means every vehicle intended primarily for use and operation on the public highways which is self-propelled and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power but which is designed to be attached to or become a part of or to be drawn by a self-propelled vehicle, not including farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

***REGULATION 12-6-102 (12). A "new" motor vehicle is defined as "any motor vehicle being transferred for the first time from a manufacturer or importer, or dealer or agent or agent of a manufacturer or importer, and which motor vehicle has heretofore not been used, and is what is commonly known as a 'new motor vehicle'."***

***For the purpose of administration of the Motor Vehicle Dealers and Salesperson Licensing Law, a "new" motor vehicle shall be deemed to be a motor vehicle sold by a Colorado licensed motor vehicle dealer, as defined in the Act, who is franchised by the manufacturer of that make of motor vehicle to sell such motor vehicles. Said motor vehicle shall not have been used as a demonstrator or for private use, or for any other purpose which would indicate "use" in the strict definition of the word "used." A motor vehicle which has been used by a dealer solely for the purpose of demonstration to prospective customers shall be considered a "new vehicle" unless such demonstration use has been for more than fifteen hundred (1500) miles.***

***New motor vehicles may be exchanged between dealers enfranchised to sell the same make of vehicle by a proper assignment of the Manufacturer's Certificate of Origin.***

***Only wholesalers or "new" motor vehicle dealers franchised by manufacturers to sell their motor vehicles will be allowed to sell "new" motor vehicles, and only then if they have not previously been sold except by the manufacturer to such dealer.***

***A "used motor vehicle" is defined as any motor vehicle which has been sold, bargained, exchanged, given away, or the title thereto transferred from the person who first took title thereto from the manufacturer or importer, dealer or agent of the manufacturer or importer, or so used as to have become what is commonly known as a "secondhand motor vehicle." In the event of transfer on the Certificate of Origin, from the original***

***franchised dealer to any other dealer or individual other than a franchised dealer of the same make of vehicle, the vehicle shall be considered a "used" motor vehicle, and must be titled in the new owner's name. Vehicles with more than fifteen hundred (1500) miles of demonstration use shall be considered "used" vehicles. Such "demonstrators" and other motor vehicles which have been used by a dealer prior to their sale shall be titled in the dealer's name and sold as "used" motor vehicles.***

***All vehicles which do not qualify as "new" motor vehicles shall be deemed to be "used" motor vehicles for the purpose of administration of this Act. (1 C.C.R. 205-1), (eff. 11-30-97).***

(**13) "Motor vehicle dealer"** means any person who, for commission or with intent to make a profit or gain of money or other thing of value, sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale or exchange of an interest in new or new and used motor vehicles or who is engaged wholly or in part in the business of selling new or new and used motor vehicles, whether or not such motor vehicles are owned by such person. The sale of three or more new or new and used motor vehicles or the offering for sale of more than three new or new and used motor vehicles at the same address or telephone number in any one calendar year shall be prima facie evidence that a person is engaged in the business of selling new and new and used motor vehicles. "Motor vehicle dealer" includes any owner of real property who allows more than three new or new and used motor vehicles to be offered for sale on such property during one calendar year unless said property is leased to a licensed motor vehicle dealer.
"Motor vehicle dealer" does not include:

**(a)** Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

**(b)** Public officers while performing their official duties;

**(c)** Employees of persons enumerated in the definition of "motor vehicle dealer" when engaged in the specific performance of their duties as such employees;

**(d)** A wholesaler, as defined in subsection (18) of this section, or anyone selling motor vehicles solely to wholesalers;

**(e)** Any person engaged in the selling of a fire truck;

**(f)** A motor vehicle auctioneer, as defined in subsection (12.6) of this section.

***REGULATION 12-6-102 (13). "Profit" may be "gain, benefit or advantage," but "gain, benefit or advantage" does not necessarily mean only "profit."***

***Profit may be defined as the difference between the price paid and the market value of the vehicle after deduction of the expenses incurred in the sale thereof.***

***Gain of money or other thing of value includes but is not limited to any increase or addition to what one has of that which is of profit, advantage or benefit.***

***A profit or gain doesn't necessarily mean a direct return; and therefore a saving of expense which would otherwise be incurred is also a profit or gain to the person benefited. (1 C.C.R. 205-1)***

**(15) "Person"** means any natural person, estate, trust, limited liability company, partnership, association, corporation, or other legal entity, including, without limitation, a registered limited liability partnership.

**(16.5) "Recreational vehicle"** means a camping trailer, fifth wheel trailer, motor home, recreational park trailer, travel trailer, or truck camper, all as defined in section 24-32-902, C.R.S.

**12-6-105. Powers and duties of executive director. (1)** The executive director is hereby charged with the administration, enforcement, and issuance or denial of the licensing of buyer agents, distributors, distributor branches, distributor representatives, factory branches, factory representatives, and motor vehicle manufacturers, and shall have the following powers and duties:

**(a)** To promulgate, amend, and repeal such reasonable rules and regulations relating to those functions the executive director is mandated to carry out pursuant to this part 1 and the laws of the state of Colorado that the executive director deems necessary to carry out the duties of the office of the executive director pursuant to this part 1;

**(b)** To employ, subject to the laws of the state of Colorado and after consultation with the board, an executive secretary for the board. The executive secretary shall be accountable to the board and shall, pursuant to delegation by the board, discharge the responsibilities of the board under this part 1. The executive director may also employ such clerks, deputies, and assistants as the executive director considers necessary to discharge the duties imposed upon the executive director by this part 1 and to designate the duties of such clerks, deputies, and assistants;

***REGULATION 12-6-105 (1)(b). POWERS AND DUTIES OF THE EXECUTIVE SECRETARY. In addition to any other duties delegated to the Executive Secretary of the Motor Vehicle Dealer Board contained in the board's regulations, the Executive Secretary is delegated the authority to perform the following ministerial acts:***
***(I) The board permits its Executive Secretary to set and maintain the board's docket, grant motions for continuances and motions for enlargements of time, issue subpoenas, and issue final agency orders pursuant to the board's action.***
***(II) Board orders and correspondence may be written, signed and issued by the Executive Secretary on behalf of the board consistent with the board's action or direction. Notices of charges may be signed and issued by the Executive Secretary after the board has referred the matter for a hearing pursuant to section 12-6-104 (3) (f) (II), C.R.S., and after drafting and review by the office of the Attorney General.***
***(III) The Executive Secretary is delegated the authority to conduct informal fact-finding conferences and make recommendations to the board for the granting or denying of an application for a motor vehicle salesperson license.***
***(1 C.C.R. 205-1) (effective 12/30/97)***

**(c)** To issue and, for reasonable cause shown or upon satisfactory proof of the unfitness of the applicant under standards established and set forth in this part 1, to refuse to issue to any applicant any license the executive director is authorized to issue by this part 1;

***REGULATION 12-6-105 (1)(c).***
***All applications for licenses must be approved by the administrator before they can be issued.***
***An application for a new license shall be acted upon promptly and written notice of the action taken by the administrator sent to the applicant either by personal service upon him or by certified mail sent to the last address furnished to the administrator by the applicant. If the applicant becomes subject to denial, the grounds therefor shall be given to the applicant and an opportunity for a hearing provided within 30 days after notice is given to the applicant. Such hearings shall be held in accordance with and in the same manner as those hearings which involve a suspension or revocation of a license. Failure to appear for the hearing without good cause shown shall be grounds for automatic denial of the application.***
***(1 C.C.R. 205-1)***

**(d)(I)** To investigate upon the executive director's own initiative, upon the sworn complaint of any person, or upon request by the board pursuant to section 12-6-104 (3)(f)(I), any suspected or alleged violation by any person licensed by the executive director pursuant to this part 1 of any of the terms and provisions of this part 1 or of any rule or regulation promulgated by the executive director under the authority conferred upon the executive director in this section;

**(II)** The investigators and their supervisors utilized by the executive director, pursuant to subparagraph (I) of this paragraph (d), while actually engaged in performing their duties, shall have the authority as delegated by the executive director to issue subpoenas in relation to performance of their duties relating to licensees who are under the jurisdiction of the executive director and the authority as delegated by the executive director to issue summonses for violations of sections 12-6-120(2) and 42-6-140, C.R.S., and to procure criminal records during an investigation.

***REGULATION 12-6-105 (1)(d). The administrator, on his own motion or upon the sworn complaint of any person, charging any licensee with a violation of any provision of the law or any rule or regulation promulgated by the administrator concerned with the sale and distribution of motor vehicles shall determine through an investigation conducted by him and his agents and representatives, the probable truth of such charge or charges. (1 C.C.R. 205-1)***

**(e)** To prescribe the forms to be used for applications for licenses to be issued by the executive director under the provisions of this part 1 and to require of such applicants, as a condition precedent to the issuance of such licenses, such information concerning the applicant's fitness to be licensed under this part 1 as the executive director considers necessary;

***REGULATION 12-6-105 (1)(e) 1. All applications for licenses shall be made upon forms prescribed by the administrator. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual license fee.***

***If the applicant is a partnership, it shall submit with the application a certificate of partnership.***

***If the applicant is a corporation, it shall submit with the application a copy of its articles of incorporation, and if a foreign corporation, evidence of its qualification to do business within the state. In addition, each corporation applicant shall submit the names and addresses of all persons holding over ten percent of the outstanding and issued capital stock of said corporation. Any transfer of ten percent or more of the capital stock of any corporation holding a license under the provisions of this article shall be reported to the administrator not less than ten days prior to such transfer. All such reports shall be made on forms supplied by the administrator.***

***Upon request of the administrator, each applicant for a license shall provide suitable additional evidence of their residence, good character and reputation. Applicants and licensees shall also submit upon request by the administrator all required information concerning financial and management associations and interests of other persons in the business.***

***No licensee shall change the name or trade name of the business of his place of business or business address without submitting written notice to the administrator, not less than ten days prior to the change.***

***All information submitted to the administrator, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly. The failure of an applicant or licensee to so inform the administrator shall be grounds for the suspension, revocation, or denial of the license.***

***2. A change in the operating entity of a licensee's business shall be cause for the revocation of the license and shall require a new application and fee. (1 C.C.R. 205-1)***

**(f)** To summarily issue cease and desist orders on such terms and conditions and for such period of time as to the executive director appears fair and just to any person who is licensed by the executive director pursuant to this part 1 if such orders are followed by notice and a hearing pursuant to section 12-6-104 (3)(e)(I).

***REGULATION 12-6-105 (1)(f). If it shall appear from an investigation by the administrator and his agents and representatives or shall otherwise come to the attention of the administrator that there is probable cause to believe that a licensee has violated any provision set forth in this article or any rule or***

***regulation promulgated in accordance therewith, the administrator shall issue and cause to be served upon such licensee either by certified mail at the last address furnished the executive director by the licensee, or by personal service upon the licensee a notice of hearing.***

***A hearing shall be held at a place and time designated by the administrator on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense and explanation, and shall be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged, evidence and statements in aggravation of the offense shall also be permitted.***

***After considering all the evidence and arguments presented at the hearing, the administrator will make a final determination either at the hearing or within a reasonable time thereafter and send the licensee by certified mail at the last address furnished the administrator by the licensee or by personal service upon him a notice of final determination. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, a cease and desist order shall be issued by the administrator and in the proper case his license suspended or revoked on such terms and conditions and for such period of time as to the administrator shall appear fair and just. The decision of the administrator shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate rule, order, sanction, relief or denial thereof. Failure to appear for the hearing without good cause shown shall be grounds for automatic suspension or revocation of the license.***

***Cease and desist orders shall be issued by the administrator, after due notice and hearing in accordance with this article and the rules and regulations promulgated therewith for any unlawful acts engaged in by a licensee as enumerated in Section 12-6-120 (2) C.R.S., as amended. (1 C.C.R. 205-1)***

**(2)** In the event any person fails to comply with a cease and desist order issued pursuant to this section, the executive director may bring a suit for injunction to prevent any further and continued violation of such order. In any such suit the final proceedings of the executive director, based upon evidence in record, shall be prima facie evidence of the facts found therein.

**12-6-106. Records as evidence.** Copies of all records and papers in the office of the board or executive director, duly authenticated under the hand and seal of the board or executive director, shall be received in evidence in all cases equally and with like effect as the original thereof.

**12-6-107. Attorney general to advise and represent. (1)** The attorney general of this state shall represent the board and executive director shall give opinions on all questions of law relating to the interpretation of this part 1 or arising out of the administration thereof and shall appear for and in behalf of the board and executive director in all actions brought by or against them, whether under the provisions of this part 1 or otherwise.

**12-6-108. Classes of licenses.**

**(1)** Licenses issued under the provisions of this part 1 shall be of the following classes:

**(d)** Manufacturer's, distributor's, factory branch's, or distributor's branch's license shall permit the aforesaid to engage in the activities of a manufacturer, distributor, factory branch, or distributor branch and to sell fire trucks.

**(f)** Factory representative's or distributor representative's license shall permit the aforesaid to engage in the activities of a factory representative or a distributor representative.

**12-6-109. Display, form, and custody of license.** The board and the executive director shall prescribe the form of the license to be issued by the executive director, and each license shall have imprinted thereon the seal of their offices. The license of each motor vehicle salesperson shall be delivered or mailed to the salesperson's home address and shall be kept by the salesperson at such salesperson's place of employment for inspection by employers, consumers, the executive director, or the board. It is the duty of each motor vehicle dealer, manufacturer, distributor, wholesaler, factory branch, distributor branch, factory representative, distributor representative, wholesale motor vehicle auction dealer, or used motor vehicle dealer to display conspicuously such person's own license in such person's place of business. Each license issued pursuant to this part 1 is separate and distinct. It shall be a violation of this part 1 for any person to exercise any of the privileges granted under a license which such person does not hold, or for any licensee to knowingly allow such an exercise of privileges.

**12-6-110. Fees - disposition - expenses - expiration of licenses. (1)** There shall be collected with each application the fee established pursuant to subsection (5) of this section for each of the following licenses:

**(b)** Manufacturer's license;

**(c)** Distributor's license;

**(e)** Factory branch's or distributor branch's license;

**(f)** Factory representative's or distributor representative's license;

**(2)** All such fees shall be paid to the state treasurer who shall credit the same to the auto dealer's license fund.

**(3)(a)** Such licenses, if the same have not been suspended or revoked as provided in this part 1, shall be valid until one year following the month of issuance thereof and shall then expire; except that any license issued under this part 1 shall expire upon the voluntary surrender thereof or upon the abandonment of the licensee's place of business for a period of more than thirty days.

***REGULATION 12-6-110 (3)(a). Renewal of licenses. Any renewal application submitted after the expiration date of the license may be assessed a late fee as permitted by law. (1 C.C.R. 205-1)(effective 3/30/99)***

**(b)** Thirty days prior to the expiration of such licenses, the executive director shall mail to any such licensee's home address a notice stating when such person's license is due to expire and the fee necessary to renew such license.
**(c)** Upon the expiration of such license, unless suspended or revoked, the same may be renewed upon the payment of the fees specified in this section which shall accompany applications and such renewal shall be made from year to year as a matter of right; except that, if a motor vehicle dealer, used motor vehicle dealer, or wholesaler voluntarily surrenders its license or abandons its place of business for a period or more than thirty days, the licensee is required to file a new application to renew its license.

**(d)** A transition procedure for licenses licensed prior to July 1, 1992, shall be established by the board or the executive director by rule and regulation.

**(5)(a)** The board shall propose, as part of its annual budget request, an adjustment in the amount of each fee which the board is authorized by law to collect. The budget request and the adjusted fees for the board shall reflect direct and indirect costs.

**(b)** Based upon the appropriation made and subject to the approval of the executive director, the board shall adjust the fees collected by the executive director so that the revenue generated from said fees covers the direct and indirect costs of administering this article. Such fees shall remain in effect for the fiscal year for which the appropriation is made.

**12-6-114. Filing of written warranties.** All licensed manufacturers shall file with the executive director all written warranties and changes in written warranties that such manufacturer makes on any motor vehicle or parts thereof. All licensed manufacturers shall file with the executive director a copy of the delivery and preparation obligations of a manufacturer's dealer, and these warranties and obligations shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer.

Any mechanical, body, or parts defects arising from any express or implied warranties of the manufacturer shall constitute the manufacturer's product or warranty liability, and the manufacturer shall reasonably compensate any authorized dealer who performs work to rectify said manufacturer's product or warranty defects.

***REGULATION 12-6-114. The administrator by accepting the filing of written warranties, is not authorized to mediate disputes between manufacturers, dealers and retail purchasers of motor vehicles.***

***If the manufacturer provides no written warranty on any motor vehicle or parts thereof, written notice of this fact shall be given to the administrator and placed on file with him. The filing of such disclaimer of warranty shall not exempt such manufacturer from possible claims against him under this article.***

**12-6-115. Application. (2)** Application for distributor's, distributor branch's, distributor representative's, factory branch's, factory representative's, or manufacturer's licenses shall be made to the executive director.

**(3)** All fees for licenses shall be paid at the time of the filing of application for license.

**(4)** All persons applying for a motor vehicle dealer's license shall file with the board a certified copy of a certificate of appointment as a dealer from a manufacturer.

**(5)** All persons applying for a manufacturer's or distributor's license shall file with the executive director a certified copy of their typical written agreement with all motor vehicle dealers, and also evidence of the appointment of an agent for process in the state of Colorado shall be included with the application.

***REGULATION 12-6-115 (5). Agreement means contract or franchise or any other terminology used to describe the contractual relationship between manufacturers, distributors and motor vehicle dealers.***

***Manufacturers and distributors shall notify the administrator immediately of the appointment of any additional dealers, of any revisions or additions to the typical written agreement on file, or of any supplements to such agreement. Agreements are deemed to be continuing unless the manufacturer or distributor has notified the administrator of the discontinuation or cancellation of the agreement of any of its dealers.***

***If a manufacturer or distributor does not enter into any formal written agreement with its dealers, written notice to this effect shall be given to the administrator and placed on file by him.***

***The administrator may be appointed as the agent for service of process in the state of Colorado. In any case wherein a licensee or licensees are served with process by service thereof upon the administrator, the administrator shall no later than two days after the service of said process upon him mail a copy thereof to each such licensee addressed to the licensee at the last address furnished to the administrator by the licensee, by certified mail with request for return receipt. (1 C.C.R. 205-1)***

**12-6-118. Licenses — grounds for denial, suspension, or revocation.**

**(1)** A manufacturer's, distributor's, factory branch's, or distributor branch's license may be denied, suspended, or revoked on the following grounds:

**(b)** Material misstatement in an application for a license;

***REGULATION 12-6-118 (1) (b). No license shall be issued to or held by any person, unless he is with respect to his character, record and reputation, satisfactory to the administrator. (1 C.C.R. 205-1)***

**(c)** Willful failure to comply with any provisions of this part 1 or any rule or regulation promulgated by the executive director;

**(d)** Engaging, in the past or present, in any illegal business practice.

**(2)** A factory representative's or distributor representative's license may be denied, suspended, or revoked on the following grounds:

**(b)** Material misstatement in an application for a license;

**(c)** Willful failure to comply with any provisions of this part 1 or any rule or regulation promulgated by the executive director under this part 1;

**(d)** Having indulged in any unconscionable business practice pursuant to Title 4, C.R.S.;

**(e)** Having coerced or attempted to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any other commodities or services which have not been ordered by said dealer;

**(f)** Having coerced or attempted to coerce any motor vehicle dealer to enter into any agreement to do any act unfair to said dealer by threatening to cause cancellation of the franchise of said dealer;

**(g)** Having withheld, threatened to withhold, reduced, or delayed without just cause an order for motor vehicles, parts or accessories therefor, or any other commodities or services which have been ordered by a motor vehicle dealer;

**(h)** Engaging, in the past or present, in any illegal business practice.

**(6)** Any license issued pursuant to this part 1 may be denied, revoked, or suspended if unfitness of such licensee or licensee applicant is shown in the following:

**(a)** The licensing character or record of the licensee or licensee applicant;

**12-6-120. Unlawful acts. (1)** It shall be unlawful and a violation of this part 1 for any manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative:

**(a)** To willfully fail to perform or cause to be performed any written warranties made with respect to any motor vehicle or parts thereof;

**(b)** To coerce or attempt to coerce any motor vehicle dealer to perform or allow to be performed any act which could be financially detrimental to the dealer or which would impair the dealer's goodwill or to enter into any agreement with a manufacturer, factory branch, distributor, or distributor branch which would be financially detrimental to the dealer or impair the dealer's goodwill, by threatening to cancel or not renew any franchise between a manufacturer, distributor, factory branch, or distributor branch and said dealer;

**(c)** To coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle, parts or accessories therefor, or any commodities or services which have not been ordered by said dealer;

**(d)(I)** To cancel or cause to be cancelled, directly or indirectly, without just cause, the franchise of any motor vehicle dealer, and the nonrenewal of a franchise or selling agreement without just cause is a violation of this paragraph (d) and shall constitute an unfair cancellation;

**(e)** To withhold, reduce, or delay unreasonably or without just cause delivery of motor vehicles, motor vehicle parts and accessories, commodities, or moneys due motor vehicle dealers for warranty work done by any motor vehicle dealer;

**(f)** To withhold, reduce, or delay unreasonably or without just cause services contracted for by motor vehicle dealers;

**(g)** To coerce any motor vehicle dealer to provide installment financing with a specified financial institution;

**(h)** To violate any duty imposed by, or fail to comply with, any provision of section 12-6-120.3, 12-6-120.5, or 12-6-120.7;

**(i)** To refuse to approve, unreasonably, the sale or transfer of the ownership of a dealership by sale of the business or by stock transfer or to refuse to approve, unreasonably, the change in executive management of the dealership, but nothing in this part 1 shall authorize the sale, transfer, or assignment of a franchise or a change of the principal operator without the approval of the manufacturer or distributor, which approval shall not be unreasonably withheld.

**(j)(I)** To fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make except as a result of a strike or labor difficulty, lack of manufacturing capacity, shortage of materials, freight embargo, or other cause over which the manufacturer has no control; or

**(II)** To require a dealer to pay an unreasonable fee, purchase unreasonable advertising displays or other materials, or comply with unreasonable training or facilities requirements as a prerequisite to receiving any particular model of that same line-make. For purposes of this subparagraph **(II)**, reasonableness shall be judged based on the circumstances of the individual dealer and the conditions of the market served by the dealer.

**(III)** This paragraph (j) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

**(k)** To require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicles or related products; except that this paragraph (k) shall not apply unless the motor vehicle dealer:

**(I)** Maintains a reasonable line of credit for each make or line of new motor vehicle; and

**(II)** Remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer. "Reasonable Facilities Requirements" shall not include any requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space unless such a requirement is justified by reasonable business considerations.

**(l)(I)** To fail to pay to a motor vehicle dealer, within ninety days after the termination, cancellation, or nonrenewal of a franchise, all of the following:

**(A)** The dealer cost, plus any charges made by the manufacturer for distribution, delivery, and taxes, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, of unused, undamaged, and unsold motor vehicles in the motor vehicle dealer's inventory that were acquired from the manufacturer or from another motor vehicle dealer of the same line-make within the previous twelve months;

**(B)** The dealer cost, less all allowances paid or credited to the motor vehicle dealer by the manufacturer, for all unused, undamaged, and unsold supplies, parts, and accessories in original packaging and listed in the manufacturer's current parts catalog;

**(C)** The fair market value of each undamaged sign owned by the motor vehicle dealer and bearing a common name, trade name, or trademark of the manufacturer if acquisition of such sign was required by the manufacturer;

**(D)** The fair market value of all special tools and equipment that were acquired from the manufacturer or from sources approved and required by the manufacturer and that are in good and usable condition, excluding normal wear and tear; and

**(E)** The cost of transporting, handling, packing, and loading the motor vehicles, supplies, parts, accessories, signs, special tools, equipment, and furnishings described in this paragraph (l).

**(II)** This paragraph (l) shall only apply to manufacturers of recreational vehicles in cases where the manufacturer terminates, cancels, or fails to renew the recreational vehicle dealer franchise; and this paragraph (l) shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

**(m)** To require, coerce, or attempt to coerce any motor vehicle dealer to close or change the location of the motor vehicle dealer, or to make any substantial alterations to the dealer premises or facilities when doing so would be unreasonable or without written assurance of a sufficient supply of motor vehicles so as to justify such changes, in light of the current market and economic conditions;

**(n)(I)** To authorize or permit a person to perform warranty service repairs on motor vehicles unless the person is:

**(A)** A motor vehicle dealer with whom the manufacturer has entered into a franchise agreement for the sale and service of the manufacturer's motor vehicles; or

**(B)** A person or government entity that has purchased new motor vehicles pursuant to a manufacturer's fleet discount program and is performing the warranty service repairs only on vehicles owned by such person or entity.

**(II)** This paragraph (n) shall not apply to manufacturers of recreational vehicles nor to manufacturers of vehicles with a passenger capacity of thirty-two or more.

**(o)** To require, coerce, or attempt to coerce any motor vehicle dealer to prospectively agree to a release, assignment, novation, waiver, or estoppel that would relieve any person of a duty or liability imposed under this article except in settlement of a bona fide dispute.

**(2)** It is unlawful for any person to act as a motor vehicle dealer, manufacturer, distributor, wholesaler, factory branch, distributor branch, factory representative, distributor representative, used motor vehicle dealer, buyer agent, wholesale motor vehicle auction dealer, or motor vehicle salesperson unless such person has been duly licensed under the provisions of this part 1, except for persons exempt from licensure as a manufacturer pursuant to section 12-6-102 (11); however, such persons shall be required to comply with all other applicable requirements for manufacturers, including, but not limited to, those pertaining to vehicle identification numbers and manufacturer's statements of origin.

**12-6-120.5. Independent control of dealer - definitions.**
**(1)** Except as otherwise provided in this section, no manufacturer shall own, operate, or control any motor vehicle dealer in Colorado.
**(2)** Notwithstanding subsection (1) of this section, the following activities are not prohibited:
**(a)** Operation of a dealer for a temporary period, not to exceed two years, during the transition from one owner or operator to another;
**(b)** Ownership or control of a dealer while the dealer is being sold under a bona fide contract or purchase option to the operator of the dealer;
**(c)** Participation in the ownership of the dealer solely for the purpose of providing financing or a capital loan that will enable the dealer to become the majority owner of the dealer in less than seven years; and
**(d)** Operation of a motor vehicle dealer if the manufacturer has no other franchised dealers of the same line-make in this state.
**(3)** As used in this section:
**(a)** "Control" means to possess, directly, the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise; except that "control" does not include the relationship between a manufacturer and a motor vehicle dealer under a franchise agreement.
**(b)** "Manufacturer" means and includes any motor vehicle manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative.
**(c)** "Operate" means to directly or indirectly manage a motor vehicle dealer.
**(d)** "Own" means to hold any beneficial ownership interest of one percent or more of any class equity interest in a dealer, whether as a shareholder, partner, limited liability company member, or otherwise. To "hold" an ownership interest means to have possession of, title to, or control of the ownership interest, either directly or through a fiduciary or agent.
**(4)** This section shall not apply to manufacturers of vehicles with a passenger capacity of thirty-two or more.

**12-6-121. Penalty.** Any person who willfully violates any of the provisions of this part 1 or who willfully commits any offense in this part 1 declared to be unlawful commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.; except that any person who violates the provisions of section 12-6-120 (2) commits a class 3 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars for each separate offense; except that, if the violator is a corporation, the fine shall be not less than five hundred dollars or more than two thousand five hundred dollars for each separate offense. A second conviction shall be punished by a fine of two thousand five hundred dollars .

**12-6-121.5. Fines - disposition-unlicensed sales.** Any fine collected for a violation of section 12-6-120 (2) shall be awarded to the law enforcement agency which investigated and issued the citation for said violation.

**12-6-122. Right of action for loss.**
**(2)** If any person suffers any loss or damage by reason of any unlawful act as provided in section 12-6-120 (1)(a), such person shall have a right of action against the manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative. In any court action wherein a manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative has been found liable in damages to any person under this part 1, the amount of damages so determined shall be trebled and shall be recoverable by the person so damaged. Any person so damaged shall also be entitled to recover reasonable attorney's fees as part of his damages.

**(3)** If any licensee suffers any loss or damage by reason of any unlawful act as provided in section 12-6-120 (1), such licensee shall have a right of action against such manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative. In any court action wherein a manufacturer, distributor, factory branch, distributor branch, factory representatives, or distributor representative has been found liable in damages to any licensee under this part 1, any licensee so damaged shall also be entitled to recover reasonable attorney's fees as part of his damages.

**12-6-122.5. Contract disputes - venue - choice of law.**

**(1)** In the event of a dispute between a motor vehicle dealer and a manufacturer under a franchise agreement, notwithstanding any provision of the agreement to the contrary:

**(a)** At the option of the motor vehicle dealer, venue shall be proper in the county or judicial district where the dealer resides or has its principal place of business; and

**(b)** Colorado law shall govern, both substantively and procedurally.

**42-3-127. Manufacturers or dealers.**

**(1)** A manufacturer, drive-away or tow-away transported of, or dealer in, motor vehicles, trailers, or semitrailers operating any such vehicle upon any highway, in lieu of registering each vehicle, may obtain from the department, upon application therefor upon the proper official form and payment of the fees required by law, and attach to each such vehicle one number plate, as required in this article for different classes of vehicles, which plate shall bear a distinctive number, the name of this state, which may be abbreviated, and the year for which issued, together with a distinguishing word or symbol indicating that such plate was issued to a manufacturer, drive-away or tow-away transporter, or dealer. Any such plates so issued may, during the registration period for which issued, be transferred from one such vehicle to another when owned and operated by or with the authority of such manufacturer or representative of such manufacturer or operated by such drive-away or tow-away transporter or dealer.

**(2)** No manufacturer of or dealer in motor vehicles, trailers, or semitrailers shall cause or permit any such vehicle owned by such person to be operated or moved upon a public highway without there being displayed upon such vehicle a number plate, except as otherwise authorized in this article.

# Manufacturer License Plates

***Basis: The statutory basis for this regulation is C.R.S. 42-3-127 (4)(b) and 42-3-134 (9)(b).***

***Purpose: The following rules and regulations are promulgated to establish criteria for the issuance and use of manufacturer plates.***

## *Requirements*

***In all cases the applicant shall complete and submit a Department approval application to the Department of Revenue, Enforcement Business Group, Auto Industry Division.***

***The number of plates authorized for purchase by each manufacturer shall be governed by the following criteria and the manufacturer's compliance with the criteria shall be certified to by a duly authorized representative of the manufacturer.***

***1. New manufacturers and factory branch allocations.***

***a. Each licensed manufacturer, which has at least one licensed representative, shall be authorized a minimum of three plates upon proof of Colorado titles applicable for the vehicles on which the plates are to be used.***

***b. Each licensed factory branch located within the boundaries of the state shall be authorized a minimum of three plates upon proof of Colorado titles applicable for the vehicles on which the plates are to be used. The branch must have at least one licensed representative.***

***c. Each small trailer manufacturer, with at least one representative, shall be authorized a minimum of three plates upon proof of Colorado titles applicable for the vehicles on which the plates are to be used.***

***d. Additional manufacturer plate authorizations during the initial application year shall be issued on a per vehicle basis. Applicants wishing to obtain additional manufacturer plates shall present to the Department of Revenue, Enforcement Business Group, Auto Industry Division, proof of Colorado title applicable for the vehicle on which the plate is to be used. Each titled vehicle shall be entitled to one plate authorization.***

***2. Renewal of manufacturers and factory branch allocations.***

***a. Authorizations for manufacturer plates when renewing shall be based on the***

*number of vehicles the manufacturer has titled in Colorado at the time of the application for renewal. Each titled vehicle shall be entitled to one plate authorization.*

*b. Applicants who need to obtain additional manufacturer plates during the year shall present to the Department of Revenue, Enforcement Business Group, Auto Industry Division, proof of Colorado title applicable to the vehicle on which the plate is to be used. Each titled vehicle shall be entitled to one plate authorization.*

*c. The Director of the Department of Revenue or his designee shall have the right to request supporting documents to verify the validity of the number of plates requested.*

*Vehicles bearing manufacturer plates must be owned by and titled in Colorado to the manufacturer or its factory branch. Operating a vehicle with manufacturer plates on a manufacturer's certificate of origin is NOT permitted. Colorado title must be obtained.*

*The driver of a vehicle bearing a manufacturer license plate shall have in his or her possession the receipt for application for a Colorado Title. Said validated receipt shall serve as the registration and insurance verification.*

*Additional vehicles owned and operated by a manufacturer or its branch are considered commercial and are subject to normal Colorado registration procedures and fees.*

*Verification of employment and authorizations for use shall be in written form on the manufacturer's letterhead and shall be in the driver's possession at all times when the vehicle is being operated on the highways in Colorado.*

*Vehicles bearing Colorado manufacturer plates must be principally operated and maintained in the State of Colorado. The receipt for title application must show a Colorado address. Manufacturer-owned vehicles operated and maintained principally in other states are subject to the licensing and registration requirements of those states.*

*No markings or advertising may appear on manufacturer-plated vehicles except those in the name of the manufacturer.*

*Manufacturer-plated vehicles are not to be used for demonstration purposes with the retail public. Demonstration rides are reserved for dealer-plated vehicles of licensed motor vehicle dealers.*

*Manufacturer plates are NOT authorized on any vehicle which has been sold, leased, or rented by the manufacturer.*

*Lost or stolen manufacturer plates must be reported to a local law enforcement agency and the Department of Revenue, Enforcement Business Group, Auto Industry Division, within seventy-two (72) hours. The manufacturer may replace lost or stolen plates through the Department of Revenue, Enforcement Business Group, Auto Industry Division, or its designated agent after completing and filing an affidavit of lost or stolen plates. The plates shall be replaced at the statutory fee for plates in excess of five. Damaged plates must be returned to the Department of Revenue, Enforcement Business Group, Auto Industry Division or its designated agent and shall be replaced for a $10 processing fee.*

*All Manufacturer plates must be surrendered to the Department of Revenue, Enforcement Business Group, Auto Industry Division, within seventy-two (72) hours if the manufacturer ceases to operate and sell motor vehicles in Colorado, or whenever the appropriate license has been suspended, denied, revoked, or expired. (1 C.C.R. 204-14) (effective 03/02/00).*