

DEPARTMENT OF STATE
BUREAU OF AUTOMOTIVE REGULATION
LICENSING VEHICLE BROKERS

(By authority conferred on the secretary of state by 1949 PA 300 and 1998 PA 455, MCL 257.204 and 257.251)

R 257.181 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means 1949 PA 300, MCL 257.1 et seq.
 - (b) "Administrator" means the secretary of state or any person designated by the secretary of state to act in his or her place.
 - (c) "Broker" means a person who does not acquire ownership of a vehicle and who, for a consideration, does or offers to do at least 1 of the following with respect to the sale, lease, purchase, or exchange of a vehicle of a type required to be registered under the act and with respect to which he or she does not have title or other legal interest:
 - (i) Brings together a buyer and seller or a lessee and lessor of a vehicle.
 - (ii) Negotiates the terms of a transaction.
 - (iii) Shows or displays a vehicle. "Broker" does not include a person employed by a licensed dealer, while acting within the scope of his or her employment.
- (2) Terms defined in the act have the same meanings when used in these rules.

History: 1979 AC; 1998-2000 AACS.

R 257.182 Address of administrator.

Rule 2. The official address of the administrator for delivery and receipt of all mail, telegrams, information, filings, registrations, applications, and other material required by the act or these rules is:

Department of State Bureau of Automotive Regulation
Mutual Building - Second Floor 208 N. Capitol Avenue Lansing, Michigan 48918-1200

History: 1979 AC; 1998-2000 AACS.

R 257.183 Declaratory rulings.

Rule 3. (1) The administrator, on written request of an interested person, may issue a declaratory ruling as to the applicability to an actual statement of facts of the act or these rules upon submission of the following:

- (a) A clear and concise statement of the actual statement of facts.
 - (b) If the interested person desires, a brief or other reference to legal authorities upon which he or she relies for determination of the applicability of the act or these rules to the statement of facts.
- (2) A declaratory ruling shall include all of the following:
- (a) The actual statement of facts.
 - (b) The legal authority on which the department relies for its ruling, if any.
 - (c) The ruling it makes.
- (3) A ruling once issued is binding on the administrator and it may not retroactively be changed, but nothing in this rule shall prohibit the administrator from prospectively changing a ruling.

History: 1979 AC; 1998-2000 AACS.

R 257.184 Brokering by dealers prohibited.

Rule 4. The following entities shall not be licensed as, or function as, a broker:

- (a) New vehicle dealer.
- (b) Used or secondhand vehicle dealer.
- (c) Used or secondhand vehicle parts dealer.
- (d) Vehicle scrap metal processor.
- (e) Distressed vehicle transporter.
- (f) Foreign salvage vehicle dealer.
- (g) Automotive recycler.

History: 1979 AC; 1998-2000 AACS.

R 257.185 Brokering of new vehicles.

Rule 5. A broker shall, in brokering the sale or lease of new vehicles, deal through a licensed class A dealer in this state.

History: 1979 AC; 1998-2000 AACS.

R 257.186 Brokering of used vehicles; requirements.

Rule 6. (1) In brokering the sale or lease of used vehicles, a broker is not required to deal through a licensed vehicle dealer.

(2) In a used vehicle transaction where neither the buyer, seller, lessee, nor lessor is a licensed vehicle dealer, the broker shall apply for title and registration for the vehicle as provided in section 217 of the act and shall submit all taxes that are due on the transaction.

History: 1979 AC; 1998-2000 AACS.

R 257.187 Advertising; disclosure of identity required.

Rule 7. If a broker advertises, then the advertisement shall include a disclosure of the advertiser's identity as a broker and his or her dealer license number.

History: 1979 AC; 1998-2000 AACS.

R 257.188 Purchase or lease agreement; terms.

Rule 8. (1) before consummation of a sale or lease, a broker who negotiates the sale or lease of a vehicle shall draw up an agreement that shall be in addition to, and shall not differ in its terms from, any other papers, forms, or documents required by the act or otherwise executed between the buyer and the seller or the lessee and lessor of the vehicle. The broker shall retain a copy of the agreement and shall provide copies to each party to the agreement at the time the agreement is signed. The agreement shall be on a form prescribed by the administrator, shall be dated not later than the actual delivery date of the vehicle to the buyer or lessee, and shall contain all of the following information:

- (a) The name and address of the buyer or lessee.
- (b) A description of the vehicle including all of the following information:
 - (i) Make.
 - (ii) Model year.
 - (iii) Vehicle identification number.
 - (iv) Body style.
 - (v) Dealer and factory-installed accessories.
- (c) The name, address, and Michigan dealer license number of the dealer who is purchasing, selling, or leasing the vehicle.
- (d) The name, address, and Michigan dealer license number of the broker.
- (e) Date of delivery.
- (f) Odometer reading and 1 of the following:

- (i) A statement by the transferor certifying that, to the best of his or her knowledge, the odometer reading reflects the actual mileage of the vehicle.
- (ii) If the transferor knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit, a statement to that effect.
- (iii) If the transferor knows that the odometer reading differs from the actual mileage and the difference is greater than that caused by odometer calibration error, a statement that the odometer reading does not reflect the actual mileage and should not be relied upon. The notice shall include a warning notice to alert the transferee that a discrepancy exists between the odometer and the actual mileage.
- (g) Total price or, in the case of a lease, the gross capitalized cost.
- (h) Down payment or, in the case of a lease, the capitalized cost reduction, if any.
- (i) A statement signed by the broker certifying that the terms of all warranties applicable to the vehicle have been fully disclosed to the buyer or lessee in writing.
- (j) A statement signed by the broker disclosing the names of all parties to the transaction whom the broker represents.
- (k) If a fee, compensation, commission, or other valuable consideration will be paid by any party to the transaction, the amount of the fee, compensation, or other valuable consideration and a detailed description of what each individual charge includes.
 - (1) Signatures of the buyer, seller, broker, or lessee, or their respective representatives.
 - (2) For the purpose of this rule, it is presumed that the broker is the agent of the unlicensed party to the transaction.

History: 1979 AC; 1998-2000 AACS.

R 257.189 Broker's fee in writing.

Rule 9. Before a broker charges or receives a fee, the broker and the person paying the fee shall draw up and sign a written document, and a copy of the document shall be provided at the time of signing to the person paying the fee and a copy retained by the broker. A broker shall ensure that the document clearly sets forth all of the following information:

- (a) The amount of the fee.
- (b) When, in what manner, and under what circumstances the fee is payable.
- (c) The amount of any deposit required in advance and whether and under what circumstances the deposit or any portion of it shall be refunded.
- (d) The length of time for which the broker's services are contracted.
- (e) Any other terms agreed upon by the signers.

History: 1979 AC; 1998-2000 AACS.

R 257.190 Records.

Rule 10. (1) A broker shall maintain for a period of not less than 5 years from their making, copies of all purchase or lease agreements, bills of sale, and other papers and documents relating to transactions negotiated and fees charged by the broker.

(2) Upon the request of the administrator, a broker shall submit to the administrator copies of all records required by the act or these rules. The administrator shall specify the format in which the records shall be submitted, which may be electronic. This subrule shall only apply to records of vehicles sold at retail by a licensed dealer where a broker is involved in the transaction.

History: 1979 AC; 1998-2000 AACS.

R 257.191 Established place of business; requirements; restriction.

Rule 11. A broker shall maintain an established place of business, approved by the administrator, at which place the broker shall keep all required books and records, maintain posted business hours, and conduct a large share of his or her business. A broker's established place of business shall not be occupied as the established place of business of another licensed vehicle dealer.

History: 1979 AC; 1998-2000 AACSB.