

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicles

**Chapter 27. The Used Motor Vehicle
Commission**

§2701. Meetings of the Commission

A. The commission shall meet at its office in Baton Rouge, Louisiana on a date and time to be fixed by the commission.

B. Special Meetings. Special meetings shall be held upon call of the chairman by notice given to the members of the Commission at least 48 hours prior to the time the meeting is to be held; such notice may be given by telephone, facsimile, electronic mail or U.S. Mail.

C. A public comment period shall be held at or near the beginning of each board meeting, shall identify himself and the group, organization or company he represents, if any. There will be a maximum of 30 minutes per item for all public comments to be heard. Additional time can be allowed by the chairman as he deems reasonable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), LR 47:230 (February 2021).

§2703. Quorum of the Commission

A. The quorum of the commission shall be established in accordance with those set for public bodies, R.S. 42:4.2(A)(3), as a majority of total membership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(A).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2705. Executive Director

A. The Executive Director of the Louisiana Used Motor Vehicle Commission shall be in charge of the commission's office and shall conduct and direct the activities thereof in the manner as directed by the commission. The employees of the commission shall report to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2707. Correspondence with the Commission

A. All correspondence by letter with the commission shall be addressed to the attention of the executive director.

B. Louisiana Used Motor Vehicle Commission forms, applications and dealer aids are recognized as the commission official forms for licensing and communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2709. Official Seal

A. The official seal of the Louisiana Used Motor Vehicle Commission shall be as follows. The outline of the state of Louisiana with a small star denoting the approximate location of Baton Rouge, which name appears to the left of the star. It shall be bordered by the inscription, Louisiana Used Motor Vehicle Commission.

B. The executive director shall be the custodian of the official seal and shall affix the imprint or the facsimile thereof to all license certificates issued by the Louisiana Used Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

Chapter 28. Definitions

§2801. Definitions

A. *Commission* or *the commission* shall refer to the Louisiana Used Motor Vehicle Commission.

B. The word *person* as used herein shall mean any natural or juridical person, firm, association, corporation, trust partnership, limited liability company or any other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), LR 47:231 (February 2021).

Chapter 29. Licenses to be Issued by the Used Motor Vehicle Commission

§2901. Persons to be Licensed

A. Any person enumerated under R.S. 32:784(A) must be licensed by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), LR 47:231 (February 2021).

§2903. Dealer Licenses

A. The dealer license will only be issued in the legal name of the person as identified on the application for dealer license.

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business.

C. Used motor vehicle dealers will be assigned a license number to be prefixed with a "UD" designation.

D. Automotive dismantlers and parts recyclers will be assigned a license number to be prefixed with a "AD" designation.

E. Crushers will be assigned a license number to be prefixed with a "CS" designation.

F. Dealers in used parts and accessories will be assigned a license number to be prefixed with a "UP" designation.

G. Dealers who rent or who sell on a rent with option to purchase program will be assigned a license number to be prefixed with a "RD" number.

H. Dealers who perform daily rentals will be assigned a "DR" number.

I. Used motor vehicle auctions will be assigned an "AU" number.

J. A dealer who has multiple locations will be allowed from his salesman's license to sell at all locations owned by him.

K. A dealer who has multiple places of business will be allowed from his salesperson's license to sell at all places of business owned by him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), LR 47:231 (February 2021).

§2904. Additional Licensing, Requirements for the Automotive Dismantler and Parts Recycler and Used Parts and Accessories Dealers

A. Every automotive dismantler and recycler issued an automotive dismantler's license and number will be permitted to purchase and sell salvage vehicles and transfer motor vehicle titles for the purpose of dismantling and selling the parts thereof to include the salvaged vehicle with title.

B. An automotive dismantler and parts recycler may offer a rebuilt, wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of \$50,000.

C. At least one salesperson's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salespersons licensed by the commission as described in R.S. 32:781(14).

D. Used parts and accessories are broadly defined as any item removed from a used motor vehicle for the purpose of resale.

E. License fees charged and received by the commission for licenses issued on dealers in this section shall be the same as for all other dealers licensed by this agency.

F. At least one salesperson's license shall be issued for each place of business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as described in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:802.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), promulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:231 (February 2021).

§2905. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, shall:

1. verify that the applicant has an established place of business properly zoned in the municipality;
2. maintain an office reasonably suited to conduct the business of a used motor vehicle dealership and shall have an enclosed building or structure easily accessible to the public at which place the books, records, files and electronic data shall be maintained for inspection, and shall not mean temporary structures such as stands, lean-tos, or tents;
3. have a permanently affixed sign, at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the place of business to which the sign is affixed. If two or more dealers share a place of business, each dealer must display his own sign;
4. have a telephone number for the established place of business which number shall be posted or displayed in or at a place accessible to the public;
5. have a bond with an approved carrier in accordance with R.S. 32:791(G);
6. have the required garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state and for those dealers who conduct the business of daily vehicle rentals, a separate renter's policy is in effect;
7. demonstrate sufficient business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business;
8. not owe any outstanding fines for or have any pending violations of the commission's laws or rules and regulations;
9. not be an immediate family member of, the former employee of, or a former business associate of a dealer whose license was previously revoked or suspended by the commission, and intends to operate the same or substantially

the same business as operated by the revoked licensee, or the revoked licensee will be participating in the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791 and 792.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May 1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011), repromulgated LR 37:1612 (June 2011), LR 47:232 (February 2021).

§2907. Retail Auctions Operating at a Place of Business Other Than the Establish Place of Business

A. A dealer licensed by the commission to conduct auctions at an established place of business may conduct a public or retail auction for a specified period of time at a place of business other than the dealer's established place of business after receipt of a license for the auction location. A licensed dealer which conducts a public or retail auction at a place of business other than the dealer's established place of business shall include the address and telephone number of dealer's established place of business together with a telephone number to be used during the auction on all signs and bills of sale and shall obtain a public retail auction license for the auction location prior to advertising the auction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 37:1405 (May 2011), repromulgated LR 37:1612 (June 2011), LR 47:232 (February 2021).

Chapter 31. License for Salesperson

§3101. Qualifications and Eligibility for Licensure

A. The Commission, in determining the qualifications and eligibility of an applicant for a salesperson license, will base its determinations upon the following factors:

1. The applicant's business integrity.
2. A license for a salesperson will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's garage liability insurance policy. All salesperson's licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesperson's license shall include the name, address, name of employer, date, signature of the executive director, salesperson's license number prefixed with SM, followed by an electronic number.

C. A salesperson may not hold more than one salesperson's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesperson's license, with the exception that the licensed dealer has more than one place of business. The licensed dealer and licensed salesperson may sell on each place of business properly licensed as additional places of business, provided the additional places of business are in the same name as the principal place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781(14).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010), LR 47:232 (February 2021).

Chapter 37. Changes or Closures to be Reported to Commission

§3701. Changes and Closures to be Reported to Commission and Fee Assessment

A. Any changes of address, ownership or employment by a licensee shall:

1. be reported to the commission within three business days of the change.
2. include a fee of \$100 for each time a dealer changes his place of business;
3. require a site inspection performed by a commission compliance investigator.
4. shall complete the commission's closure of business form within three business days prior to closure.

B. The dealer shall notify the commission when a salesperson's employment is terminated by returning the salesperson's license within three business days.

C. Each salesperson shall surrender his identification card to the Commission and obtain a new license for the new place of business before again engaging in the business as a salesperson for another used motor vehicle dealer.

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within three business days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

E. Any person who ceases to engage in the business of a used motor vehicle dealer shall:

1. promptly notify the commission of the anticipated closure;
2. shall surrender all licenses associated with the dealership; and
3. the dealer shall list on the form any outstanding certificates of title, any unremitted or unpaid sales tax, and all outstanding temporary markers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4)(g).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 18:1117 (October 1992), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:233 (February 2021).

Chapter 39. Business Transactions

§3901. Register of Business Transactions

A. Every used motor vehicle dealer and automotive dismantler and parts recycler shall keep a register and/or records of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such records shall include all titles, bills of sale, temporary tag books, monthly sales reports, consignment agreements, and inventory and parts records. A salvage pool or salvage disposal sale must maintain a register of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such registers shall include all titles. The salvage pool or salvage disposal sale may maintain its records electronically.

B. Such registers and/or records shall be made available for inspection by the commission or identified law enforcement officers of the state, parish and municipality where the business of the used motor vehicle dealer, automotive dismantler and parts recyclers, salvage pool or salvage disposal sale is located, during reasonable business hours or business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:757.A-B.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:233 (February 2021).

Chapter 43. License Renewal

§4301. Period for Renewals

A. Completed application packages shall be submitted by November 1 of the year. If applications have not been made for renewal of existing licenses, such licenses shall expire December 31 and it shall be illegal for any person to represent himself as a dealer thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:233 (February 2021).

Chapter 44. Educational Seminar

§4402. Pre-License Educational Seminar

A. Every applicant for an initial used motor vehicle dealer's license is required to attend a pre-license seminar.

B. The seminar shall be conducted by the employees of the Commission.

C. The seminar will be held at such time and place to be determined by the Commission upon reasonable notice.

D. For the pre-license seminar, the commission shall include materials and discussion on the following areas of law: the Used Motor Vehicle Commission, the Motor Vehicle Sales Finance Law, the Office of Motor Vehicles, the Department of Public Safety and Corrections, the Department of Revenue, and any other information the commission deems necessary to educate attendees and their employees with regard to compliance with the law.

E. The seminar shall not exceed six hours in length.

F. No tests are required for completion of the pre-license educational seminar.

G. Upon applying for a license from the Commission, the applicant must attach a copy of the certificate of completion which:

1. documents that the dealership's owner, partner, officer, or local dealership manager has completed the pre-license seminar; and

2. shall be issued by the commission and shall list the participant's name, his position with the applicant, the name of the dealership, the address of the dealership, the date of completion and the signature of the instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) and 795

HISTORICAL NOTE: Promulgated by the Louisiana Used Motor Vehicle Commission, Office of the Governor, LR 47:233 (February 2021).

§4404. Post-License Educational/Continuing Seminar

A. Every applicant seeking to renew a used motor vehicle dealer's license is required to attend a post-license/continuing educational seminar prior to renewal of the license.

B. The post-license/continuing educational seminar shall:

1. have a program and materials approved by the commission;

2. focus on developments and changes in the law, rules and regulations and policy and procedures which effect

their business and which arise in the two years since the renewal of their license;

3. not exceed four hours in length;

4. be conducted in person or online via the internet; and

5. require attendees or participants to complete a test as follows:

a. the test shall be comprised of 10 questions approved by the commission; and

b. require attendees or participants to obtain a minimum score of 70 percent in order to receive credit for satisfactory completion of the seminar.

C. Any educational institution, private vocational school, correspondence school, or trade association seeking to conduct a post-license/continuing educational seminar must apply to and obtain approval from the Commission prior to providing the post-seminar/continuing educational seminar.

D. To obtain approval to conduct a post-license/continuing educational seminar, the applicant-instructor shall:

1. complete an application in such form and detail as prescribed by the Commission and shall be accompanied by any documentation requested therein; and

2. submit an application fee of \$600.

E. The commission may deny an application of a post-license/continuing educational seminar instructor for any of the following reasons:

1. the applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or theft, or has been convicted of a felony or crime involving moral turpitude in any court of competent jurisdiction;

2. an application contains a false statement of material fact;

3. a professional license or has been revoked; or

4. the applicant fails to meet the minimum requirements.

F. The commission shall approve or deny any post-license/continuing educational seminar instructor application within 45 days after receipt. Incomplete applications, or a request from the commission for additional information, may be cause for delay beyond 45 days.

G. Once approved, the post-license/continuing education seminar instructor will be given a certificate as issued by the commission.

H. No fee for a post-license/continuing education seminar may be charged unless the seminar is approved by the commission.

I. The certificate of the post-license/continuing educational seminar instructor is valid for only two years

from the date of approval and must be reapproved every two years.

J. The certificate of the post-license/continuing educational seminar instructor may be revoked or suspended for good cause upon 30 days written notice.

K. The post-license/continuing educational seminar instructor shall issue a uniform certificate of completion to all attendees and participants who successfully completed the course on a form approved by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) and 795

HISTORICAL NOTE: Promulgated by the Louisiana Used Motor Vehicle Commission, Office of the Governor, LR 47:234 (February 2021).

Chapter 45. Complaints

§4501. Complaints

A. All complaints made to the commission must be made on the complaint form provided by the commission.

B. All complaints shall include documents which support the complainant's claim.

C. The commission shall mark each complaint received on the date it is received which shall designate the date upon which the complaint is filed.

D. The commission shall assign a case number for each complaint received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:234 (February 2021).

Chapter 47. Procedure for Adjudications before the Used Motor Vehicle Commission

§4701. General Provisions on Hearings [Formerly §4707]

A. Notice of Hearing. The notice of hearing shall comply with the requirements of R.S. 32:785(B)(2).

B. Service of Notice. The notice of hearing shall be served:

1. by a compliance investigator on the licensee either personally or at its place of business on the licensee's employee (if service is made in this manner, the compliance investigator shall sign the acknowledgment of service); or

2. through the office by certified or registered mail (the return receipt shall serve as acknowledgment of service);

3. the return of service shall be filed into the case record.

C. Discovery. The Louisiana Code of Civil Procedure, Articles 1420 et seq., shall apply to all requests of discovery. Discovery shall be timely and give a reasonable opportunity to respond.

D. Preliminary Motions and Exceptions. No preliminary motions or exceptions shall be considered by the Commission unless filed five days prior to the hearing.

E. Subpoenas

1. Subpoenas shall be issued in accordance with R.S. 32:785(B)(3).

2. Subpoenas may be issued for the purpose of assisting in the investigation of any alleged violation or dispute which is before the commission.

3. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission and/or for the production of evidence of records of any kinds shall be issued by the executive director.

4. Subpoenas shall be served by a compliance investigator either personally or by certified mail or registered mail. A return shall be placed in the record designating the manner and date of service as well as the oath the person making the service.

5. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party has filed a list of names and addresses with the commission at least 10 days prior to the date that the testimony expected to be taken.

6. The party requesting the issuance of a subpoena shall deposit with the executive director a sum consistent with R.S. 13.3661(B) to cover the costs of the issuance of the subpoena.

F. Conduct and Order of the Hearing

1. The chairman of the commission shall preside over the conduct of the hearing and may set a reasonable time for the presentation of a matter depending on the nature of the case and the complexity of the issues.

2. The chairman may in his discretion sequester witnesses.

3. The chairman shall make rulings on evidentiary matters keeping in mind that the commission shall not be bound by the technical rules of the evidence and may admit material and relevant evidence. The principles underlying the Louisiana Code of Evidence shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission.

4. The hearing shall begin with any stipulation as to the facts or issues.

5. The chairman shall direct the order of witness examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1221 (July 2006), amended LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:234 (February 2021).

§4703. Restitution

A. The commission may in its discretion order restitution as follows.

1. The intent of restitution is to restore the complainant to their position as it existed prior to the licensee's violation.

2. Restitution may only be rewarded for compensatory or actual loss incurred by the complainant as a direct result of the licensee's violation and shall not be include general damages.

3. The executive director may include restitution within a stipulated order.

4. The commission may order restitution only after a hearing on a violation and only upon proof submitted by the complainant of compensatory or actual loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785(B)(6) and 32:791 (G)(3)(c).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1221 (July 2006), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:235 (February 2021).

§4707. General Provisions on Hearings

A. Notice of Hearing. The notice of hearing shall comply with the requirements of R.S. 32:785(C) and R.S. 49:955.

B. Service of Notice. The notice of hearing shall be served:

1. by a field investigator on the licensee either personally or at its place of business on the licensee's employee (if service is made in this manner, the field investigator shall sign the acknowledgment of service); or

2. through the office by certified or registered mail (the return receipt shall serve as acknowledgment of service).

C. Discovery. The Louisiana Code of Civil Procedure, Articles 1420 et seq., shall apply to all requests of discovery. Discovery shall be timely and give a reasonable opportunity to respond.

D. Preliminary Motions and Exceptions. No preliminary motions or exceptions shall be considered by the commission unless filed five days prior to the hearing.

E. Subpoenas

1. Subpoenas shall be issued in accordance with R.S. 32:785(C)(3).

2. Subpoenas may be issued for the purpose of assisting in the investigation of any violation or dispute which is before the commission.

3. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission and/or for the production of evidence of records of any kinds shall be issued by the hearing officer.

4. Subpoenas shall be served by a field investigator either personally on the witness or at the witness's place of business or abode or by certified mail or registered mail. A return shall be placed in the record designating the manner and date of service as well as the oath the person making the service.

5. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party has filed a list of names and addresses with the hearing officer at least 10 days prior to the date that the testimony expected to be taken.

6. The party requesting the issuance of a subpoena shall deposit with the hearing officer a sum consistent with R.S. 13:3661(B) to cover the costs of the issuance of the subpoena.

F. Conduct and Order of the Hearing

1. The chairman of the hearing committee shall preside over the conduct of the hearing and may set a reasonable time for the presentation of a matter depending on the nature of the case and the complexity of the issues.

2. The chairman may in his discretion sequester witnesses.

3. The chairman shall make rulings on evidentiary matters keeping in mind that the commission shall not be bound by the technical rules of the evidence and may admit material and relevant evidence. The principles underlying the Louisiana Code of Evidence shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission.

4. The hearing shall begin with any stipulation as to the facts or issues.

5. Witness Examination

a. Witnesses shall be first examined by the presenting attorney or by the hearing officer.

b. Examination shall then be followed by the commissioners.

c. Thereafter, examination may be performed by the licensee or its counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007).

PROFESSIONAL AND OCCUPATIONAL STANDARDS

§4709. Hearings on Application Appeals

A. Any person whose application for license has been denied in accordance with R.S. 32:785(A)(3) shall be provided written notice by certified or registered mail that the application has been denied, the grounds for which the application has been denied and that the applicant has the right to appeal to the Commission by making a written request for the appeal within 30 days following the receipt of the denial. No appeals will be considered beyond 30 days from the receipt of the denial.

B. Based on the applicant's written request, the commission will assign the appeal to be heard at the next available commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:785.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 32:1222 (July 2006), amended LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:235 (February 2021).

§4710. Interlocutory Cease and Desist Orders

A. The executive director may issue an interlocutory cease and desist order:

1. to prohibit and/or enjoin any activity which is a violation of the commission's laws and rules and regulations and poses a threat to the public;

2. upon sufficient proof that a person or licensee has committed or is committing a violation and is posing a threat to the public. All proof must be filed and attached to the interlocutory cease and desist order, and reasons given for the issuance must be assigned.

B. An interlocutory cease and desist order shall be served in the manner prescribed in R.S. 32:785(B)(2)(b) and shall:

1. enjoin a person or licensee from engaging in the prohibited activity for a period of time until the commission holds a hearing to review the validity of the order.

2. notify the party against whom the order is issued that the order will remain in effect until the next commission meeting date.

C. The commission shall hold a hearing at the commission's next available meeting date and upon reasonable notice to the person or licensee alleged to have committed the violation.

D. In lieu of an interlocutory order, the executive director may request that the commission issue an injunction to prohibit or enjoin a person or licensee from either committing or threatening to commit a violation of the Commission's laws and rules and regulations as follows:

E. The injunction shall be issued by the commission only upon notice and hearing to the person or licensee whose conduct is sought to be enjoined or prohibited.

F. The person or licensee shall be provided at least 10 days written notice prior to the hearing on the injunction.

G. The notice shall be served in any manner prescribed in R.S. 32:785(B)(2)(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 47:235 (February 2021).