§ 415. Registration of manufacturers, dealers, repairmen and others. 1. Definitions. The following terms when used in this article, shall be deemed to mean and include:

a. "Dealer" means a person engaged in the business of buying, selling or dealing in motor vehicles, motorcycles or trailers, other than mobile homes or manufactured homes, at retail or wholesale; except, however, trailers with an unladen weight of less than one thousand pounds. For the purposes of this section, a "mobile home" or "manufactured home" means a mobile home or manufactured home as defined in section one hundred twenty-two-c of this chapter. Any person who sells, or offers for sale more than five motor vehicles, motorcycles or trailers in any calendar year or who displays or permits the display of three or more motor vehicles, motorcycles or trailers for sale at any one time or within any one calendar month upon premises owned or controlled by him or her, if such vehicles were purchased, acquired or otherwise obtained by such person for the purpose of resale, will be regarded as a dealer. Except as otherwise provided in subdivisions three, five, six-b, and seven of this section, the term "dealer" shall include a "new motor vehicle dealer" as defined by paragraph f of this subdivision and a "qualified dealer" as defined in paragraph g of this subdivision.

b. "Person" means any natural person, firm, corporation, partnership, limited liability company, entity, joint venture, association or organization.

c. "Place of business" means a designated location at which the business of the dealer is conducted, and, in relation to a retail dealer, facilities for displaying new or used motor vehicles.

d. "Retail dealer" means a dealer whose business consists in whole or in part of buying, selling or dealing in motor vehicles, motorcycles or trailers at retail.

e. "Wholesale dealer" means a dealer whose business consists exclusively of buying, selling or dealing in motor vehicles, motorcycles or trailers at wholesale.

f. "New motor vehicle dealer" means a dealer who engages in the activities described in paragraph a of this subdivision if such activities relate to new motor vehicles and if such dealer is party to a franchise, as the terms "new motor vehicle" and "franchise" are defined in section four hundred sixty-two of this title; provided, however, for purposes of this definition, a new motor vehicle shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pickup truck, van, minivan, or suburban, with a gross vehicle weight rating of ten thousand pounds or less, and shall not include (i) any such vehicle which has been converted for use as a tow truck, or (ii) a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction; or (iii) any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment; and provided further that: (i) a dealer is a new motor vehicle dealer only with respect to those vehicles which are of the same make as those which that dealer is authorized to sell at that location pursuant to a valid franchise agreement; and (ii) a dealer is not acting as a new motor vehicle dealer when displaying, advertising, storing and/or demonstrating a new mobility vehicle.

g. "Qualified dealer" means a dealer, other than a new motor vehicle dealer or a dealer owned in whole or in part, directly or indirectly, by a manufacturer, who:

(i) acting through a single person, but operating at one or more locations of such single person, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of four thousand new and/or used motor vehicles annually (of which at least forty percent annually were new motor vehicles) at retail regardless of make or model from any one or more locations of such single person within the state, in each year from nineteen hundred ninety-five through and including nineteen hundred

ninety-eight, exclusively; or

(ii) has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred twenty-five new and/or used motor vehicles (of which at least thirty-three and one-third percent were new motor vehicles) at retail, regardless of make or model, from any one or more locations within the state, in the twelve-month period preceding August thirty-first, nineteen hundred ninety-nine; or

(iii) was issued an original certificate of registration as a dealer with a validation date of May, nineteen hundred ninety-nine, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of one hundred fifty new and/or used motor vehicles (of which at least fifty were new motor vehicles), regardless of make or model, from any one or more locations within the state, in the period between July first, nineteen hundred ninety-nine and the effective date of chapter seven of the laws of two thousand. Notwithstanding the provisions of subdivision eighteen of this section, the total number of locations from which a qualified dealer eligible pursuant to this subparagraph may operate shall not exceed that number of locations operated by such qualified dealer on August thirty-first, nineteen hundred ninety-nine; or

(iv) was issued a certificate of registration as a dealer new and used with a validation date of February, nineteen hundred ninety-eight and has continuously held a certificate of registration as a dealer for the ten years preceding the effective date of chapter seven of the laws of two thousand, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred new and/or used motor vehicles (of which at least twenty percent were new motor vehicles) regardless of make or model, from one or more locations within the state in the period between September first, nineteen hundred ninety-eight through and including August thirty-first, nineteen hundred ninety-nine.

h. For the purposes of this section, "new motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban which meets any one or more of the following criteria:

(i) a motor vehicle which has not been placed in consumer use; or

(ii) a motor vehicle which has not been transferred to someone other than a distributor, new motor vehicle dealer, or qualified dealer; or

(iii) a motor vehicle which has less than one thousand miles on the odometer.

Provided, however, that such term shall not include any such vehicle which has been converted for use as a tow truck or any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment.

i. "Used motor vehicle" means any vehicle not included in the definition of a new motor vehicle. Provided, however, that such term as used in paragraph g of this subdivision shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban, with a gross vehicle weight rating of ten thousand pounds or less, which (i) is not deemed to be a "new motor vehicle" pursuant to paragraph h of this subdivision, or (ii) has not been converted for use as a tow truck, or (iii) is not commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home, or construction equipment.

j. "Lease" means to arrange for a person to enter into an agreement subject to the provisions of article nine-A of the personal property law, or to act as a lessor as defined in such article.

k. "Mobility vehicle" means a motor vehicle that is specially converted and equipped to transport a person with a disability and is altered or modified for such use by an alterer or final stage manufacturer pursuant to parts 567 and 568 of title 49 of the code of federal regulations or a modifier pursuant to part 595 of title 49 of the code of federal regulations and that:

(i) has a chassis that contains: (A) a permanently lowered floor or permanently lowered frame; or (B) a permanently raised roof and raised door; and

(ii) contains at least one of the following: (A) an electronic or

mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter; (B) an electronic or mechanical wheelchair ramp that is installed as an integral part or permanent attachment to the motor vehicle.

For the purposes of this section, the terms "alterer" and "final-stage manufacturer" shall have the same meanings as such terms are defined in part 567.3 of title 49 of the code of federal regulations, and the term "modifier" shall mean any motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle.

l. "New mobility vehicle" means a mobility vehicle that has not previously been titled or registered for operation by a consumer, either as a mobility vehicle or as a motor vehicle.

m. "Automobile broker business" shall have the meaning set forth in subdivision one of section seven hundred thirty-six of the general business law.

2. Registration of manufacturers, repairmen and certain others. A person engaged in a business requiring the limited operation of motor vehicles, motorcycles or trailers in order to facilitate the delivery, repair or improvement thereof, or the foreclosure or repossession thereof or the installation of something thereon or for the purpose of dismantling such motor vehicle, motorcycle or trailer, may, instead of obtaining vehicle registration, as provided by sections four hundred one and four hundred ten of this chapter, apply to the commissioner for registration under this section.

3. Registration of new motor vehicle dealers, qualified dealers, and other motor vehicle dealers. a. No person shall engage in business as a new motor vehicle dealer, or represent, advertise, or otherwise hold himself or herself out as engaged or intending to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her, for a particular make, a certificate of registration as a new motor vehicle dealer as provided in subdivision

seven of this section, or unless there shall have been issued to him or her a certificate of registration as a qualified dealer as defined in paragraph g of subdivision one of this section; provided, however, for purposes of this subdivision, a new motor vehicle shall have the same meaning as set forth in paragraph h of subdivision one of this section, but shall not include a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction. Only a person who has been issued a certificate as a new motor vehicle dealer or a qualified dealer shall be entitled to engage in all dealer activities authorized under this article and shall not be required to obtain an additional certificate of registration under paragraph c of subdivision seven of this section. A qualified dealer shall be entitled to sell new motor vehicles of any make.

b. No person shall engage in the business of selling new motor vehicles, or represent or advertise that he or she is engaged or intends to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her a certificate of registration as a new motor vehicle dealer or as a qualified dealer as provided in subdivision seven of this section. No person shall engage in business as a dealer, or represent or advertise that he or she is engaged or intends to engage in such business in this state, unless there shall have been issued to him or her a certificate of registration as provided in subdivision seven of this section. No provision of this section shall be deemed to prohibit any dealer located outside of the state from selling a new motor vehicle to a new motor vehicle dealer or a qualified dealer. No provision of this section shall be deemed to prohibit any person engaged in the leasing of new motor vehicles from selling a new motor vehicle to a third-party bank, finance company or other commercial lending institution, provided that such sale is made incidental to and concurrently with the lease of such new motor vehicle by such third party bank, finance company, or other commercial lending institution as the lessor, to a retail customer.

c. The issuance of such certificate of registration to a new motor vehicle dealer, a qualified dealer, or other motor vehicle dealer shall be deemed to include the right to operate motor vehicles, motorcycles and trailers to the extent permitted by subdivision eight of this section, instead of obtaining vehicle registration as provided by sections four hundred one and four hundred ten of this title. The provisions of this section shall not apply to persons engaged in the business of buying, selling or dealing in snowmobiles and/or snow travellers.

3-a. Automobile broker business registration. No person shall engage in the automobile broker business or represent or advertise that he or she is engaged or intends to engage in the automobile broker business in this state, unless there shall have been issued to him or her a certificate of registration as an automobile broker business by the commissioner under this section pursuant to an application for registration submitted pursuant to subdivision five of this section.

4. Number plates. A dealer, manufacturer, or other person, qualifying for limited use of motor vehicles, motorcycles or trailers under subdivisions two and three of this section, shall be entitled to receive one or more sets of number plates for display thereon as the commissioner may determine, upon payment of the required fee for each set. Number plates issued to dealers under this section shall bear distinctive marks to distinguish them from manufacturer and transporter plates to be issued to other persons qualifying under this section. Number plates issued to manufacturers under this section shall bear distinctive marks to distinguish them from dealer and transporter plates to be issued to other persons qualifying under this section. A set of number plates shall consist of two plates in the case of a motor vehicle and one plate in the case of a motorcycle or trailer; provided, however, that the commissioner, in his or her discretion, may issue, for any registration year, only one number as a set for a motor vehicle, in which event a set of number plates for a motor vehicle shall consist of one plate.

5. Application for registration. The application for registration

under this section shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, setting forth:

a. Name and residence address of applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and residence address of each of the officers.

b. The place or places, including the complete address or addresses where the business is to be conducted and, in the case of an application to do business as a new motor vehicle dealer, the names of each line or make of new motor vehicle which a manufacturer or distributor has authorized the applicant to sell from each location and the date of inception of the franchise, as defined in section four hundred sixty-two of this title, which authorizes the applicant to sell such line or make from each location. A copy of each such franchise, or other documentation in lieu thereof satisfactory to the commissioner, shall be submitted to the commissioner at the time of application and upon each renewal of each certificate to do business as a new motor vehicle dealer.

b-1. The name and address of the surety company which will issue the bond required by subdivision six-b of this section. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company.

b-2. A statement indicating any interest in the applicant's franchise entity by a person or entity described in paragraph f of subdivision seven of this section.

b-3. In the case of an application for registration as an automobile broker business, the name and address of the surety company which will issue the bond required by subdivision one of section seven hundred forty-a of the general business law. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the

name and address of that agent may be provided in lieu of the information concerning the surety company.

c. Such further information as the commissioner may reasonably prescribe.

d. Before an application for an original certificate of registration is approved, the applicant must have on the premises to be licensed adequate space and proper facilities to retain and safeguard all records and documents he must maintain upon the licensed premises as required by the vehicle and traffic law and the regulations of the commissioner.

The commissioner may require the applicant for registration to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof.

Every application under this section shall be verified by the applicant.

* 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of thirty-seven dollars and fifty cents, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be two hundred twenty-five dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be five dollars. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document

upon voluntary cancellation of registration.

* NB Effective until April 1, 2028

* 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be one hundred fifty dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be one dollar. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.

* NB Effective April 1, 2028

* 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the four dollar increase in the fee for issuance of a document to be used by a dealer to sell or transfer a vehicle collected pursuant to subdivision six of this section, which shall be deposited to the general fund through March thirty-first, two thousand four and from April first, two thousand four and thereafter to the dedicated highway and bridge trust fund; and with the exception of the twelve dollar and fifty cent increase in the fee for original application for registration as a dealer or transporter pursuant to subdivision six of this section and the seventy-five dollar increase in the annual fee for registration as a dealer or transporter or for renewal pursuant to subdivision six of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and

distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

* NB Effective until April 1, 2028

* 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.

* NB Effective April 1, 2028

6-b. Dealer, qualified dealer, and new motor vehicle dealer surety bond. a. As a condition to obtaining a registration certificate pursuant to this section, every new motor vehicle dealer applicant and every qualified dealer applicant shall obtain and continue in effect a surety bond in an amount of fifty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition to obtaining a registration certificate pursuant to this section, every dealer applicant who is applying for a registration certificate in the first instance or who sold fifty motor vehicles or fewer in the previous calendar year shall obtain and continue in effect a surety bond in an amount of twenty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition of obtaining a registration certificate pursuant to this section, every dealer applicant who sold more than fifty motor vehicles in the previous calendar year shall obtain and continue in effect a surety bond in an amount of one hundred thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. The bonds shall be approved as to form by the commissioner and shall be conditioned on the new motor vehicle dealer's, qualified dealer's, and dealer's: payment of all valid bank drafts, including checks, drawn by such dealer for the purchase of motor vehicles; transfer of good title to each motor vehicle such dealer sells; safekeeping of all customer deposits related to the sale of a motor vehicle between the time of receipt of such customer deposit and the transfer of good title to the vehicle to the customer; payment for all fines imposed upon the new motor vehicle dealer, qualified dealer, or dealer by the commissioner pursuant to the provisions of this chapter; and such dealer's repayment of any overcharges of a customer by

such dealer for the vehicle registration and titling charges payable to the commissioner for registering and titling the sold vehicle. Any such dealer which is bonded pursuant to this section prior to the effective date of the chapter of the laws of two thousand sixteen which amended this paragraph shall be required to comply with the amendments made by such chapter upon renewal, replacement, alteration, or extension of such dealer's current surety bond.

b. Recovery against a bond may be made by a person, including the state, who obtains a judgment against the new motor vehicle dealer, qualified dealer, or dealer for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. The total liability imposed on the surety under this section for all breaches of the bond condition is limited to the face amount of the bond. Such liability may include, but is not limited to, the amount of the valid bank drafts, including checks, drawn by the new motor vehicle dealer, qualified dealer, or dealer for the purchase of motor vehicles or the amount of overcharge by such dealer for registration or title fees or the amount paid to such dealer or the deposit, as the case may be, for the motor vehicle for which good title was not delivered. In no event shall the surety on a bond be liable for total claims in excess of the bond amount, regardless of the number or nature of claims made against the bond or the number of years the bond remained in force, nor shall any such surety bond provide coverage for transactions involving sales of any motor vehicles for which a bond is not required pursuant to the provisions of paragraph d of this subdivision.

c. Any surety issuing a bond pursuant to this subdivision shall be required to provide sixty days' notice to the commissioner prior to the effective date of cancellation or lapse of the bond, and shall provide additional notice to the commissioner upon the date of the cancellation or lapse of such bond. Upon the cancellation or lapse of any surety bond required by this subdivision, the commissioner shall, within five days of such cancellation or lapse, verify that the dealer holds a surety bond which meets the requirements of this subdivision.

d. For purposes of this subdivision, the term "motor vehicle" means a

motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, with a gross vehicle weight rating of ten thousand pounds or less. Notwithstanding the provisions of paragraphs a and b of this subdivision, the requirement to post a surety bond as set forth in this subdivision shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles other than those motor vehicles with a gross vehicle weight rating of ten thousand pounds or less and which are commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, such as buses, school buses, garbage trucks, marine trailers, tow trucks, motorcycles, recreational vehicles, snowmobiles, trailers, mobile homes, or construction equipment. Provided, further, that such requirement also shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles solely for conversion for use as a tow truck.

7. Issuance of certificate. a. If the commissioner is satisfied that the applicant for a new motor vehicle dealer registration certificate is party to a franchise or franchises authorizing such applicant to sell or lease lines or makes of new motor vehicles which the applicant proposes to sell or lease from the locations described in the application for the sale or lease of such lines or makes and if the commissioner otherwise approves the application, upon payment of the prescribed fee, he or she shall issue a new motor vehicle dealer registration certificate in such form as he or she may prescribe. Every new motor vehicle dealer registration certificate shall by its terms permit the sale or lease of the particular lines or makes of new motor vehicles only from a location or locations authorized for such sale or lease in the franchise or franchises between such new motor vehicle dealer and the manufacturers or distributors of such new motor vehicles. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A new motor vehicle dealer registered under this section shall notify the commissioner of any change of address of the locations of his or her place or places of business and whether or

not such locations are approved as locations for the sale or lease of new motor vehicles in a franchise and which lines or makes are so approved for sale or lease at each location pursuant to the franchise or franchises within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice. A copy of each franchise affected by any such change or other proof satisfactory to the commissioner shall accompany the notice to the commissioner. If any location shall cease to be approved by the new motor vehicle manufacturer or distributor for the sale or lease of the line or make of new motor vehicle, then such new motor vehicle dealer shall immediately cease selling or leasing such line or make of new motor vehicle from such location and shall notify the commissioner within thirty days of such change, after which such new motor vehicle dealer registration certificate shall be modified to reflect such change.

b. Registration certificate for qualified dealer. If a dealer makes application, under penalty of perjury, for a registration certificate as a qualified dealer, the commissioner shall issue a registration as a qualified dealer to such dealer upon payment of the prescribed fee.

c. Registration certificate for other than new motor vehicle dealer or qualified dealer. If the commissioner approves the application of an applicant for a registration certificate other than a new motor vehicle dealer certificate or a qualified dealer certificate, upon payment of the prescribed fee, he or she shall issue a registration certificate in such form as he or she may prescribe.

c-1. Special provisions relating to mobility vehicles. (i) Any dealer, other than a new motor vehicle dealer, engaged in displaying, advertising, storing and/or demonstrating mobility vehicles shall notify prospective purchasers regarding any warranty on the mobility modifications and the effect of any such modifications or alterations on any warranty on the underlying motor vehicle and, upon the sale of any such mobility vehicle, provide the purchaser with any warranty information available to any such dealer relating to the underlying motor vehicle.

(ii) Notwithstanding the provisions of article twelve-A of this chapter, a dealer engaged in displaying, advertising, storing and/or demonstrating mobility vehicles may, without obtaining a repair shop license pursuant to such article twelve-A, perform repairs on those parts of the mobility vehicle that are unique to the modifications made thereto and which are not part of the original manufactured motor vehicle.

d. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A registrant shall notify the commissioner of any change of address of his or her principal place of business within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice.

e. A registration issued under this section may be renewed upon application therefor in such form as the commissioner may prescribe, upon payment of the fee as herein prescribed.

f. Except as provided in paragraph (bb) of subdivision two of section four hundred sixty-three of this title and subparagraph (iii) of this paragraph:

(i) The commissioner shall not issue any certificate of registration authorized by this section to any franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, except that the commissioner may renew such certificate previously issued or otherwise approved to operate to a franchisor prior to July first, two thousand six. Nothing in this section shall preclude the establishment of such facilities necessary to continue the ongoing operation of any holder of a certificate of registration authorized by this section or otherwise approved to operate to a franchisor provided such original certificate or approval was granted prior to July first, two thousand six.

(ii) On or after the effective date of this subparagraph, the

commissioner shall not issue any certificate of registration, or renew any certificate, unless the original certificate was issued before July first, two thousand six, to any motor vehicle dealer in which a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or any subsidiary, affiliate or controlled entity thereof, has acquired, or possesses, a controlling interest in the franchise entity except:

(1) when operating such franchise for a temporary period, not to exceed one year, during the transition from one owner of the motor vehicle dealership to another, provided, however, that such temporary period may be extended once for an additional period not to exceed one year for good cause. Provided that for franchisors of house coaches, the period of temporary ownership of a franchised house coach dealership may be extended in one year increments for good cause shown, except that the aggregate of such extensions shall not exceed five years; or

(2) when operating such franchise temporarily under a plan with an independent individual who is obligated to make a significant investment in the dealership that is subject to loss and has an ownership interest or expects to acquire full ownership in a reasonable period under reasonable terms and conditions, provided that a reasonable period shall be presumed to not exceed eight years.

(iii) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may renew any certificate of registration that was issued to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, prior to March twenty-sixth, two thousand fourteen; provided, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof, is a manufacturer that manufactures or assembles exclusively zero emissions vehicles, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and provided further that a controlling interest in such original franchisor, manufacturer, distributor, distributor branch or factory branch or any subsidiary, affiliate or controlled entity was not

transferred, sold or conveyed to another person or entity, other than to a subsidiary, affiliate or controlled entity of such franchisor, manufacturer, distributor, distributor branch or factory branch. For purposes of this paragraph, zero emission vehicles shall have the same meaning as under part two hundred eighteen of title six of the New York code of rules and regulations.

(iv) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may issue or renew any certificate of registration to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, that manufactures or assembles buses exclusively; provided, however, that such certificate shall be issued exclusively for the sale of buses to public transportation providers; and provided further, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof: (1) is a manufacturer that manufactures or assembles exclusively buses, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and (2) sells such buses under such certificate of registration solely to public transportation providers. For purposes of this subparagraph, the term "public transportation provider" shall mean public transportation systems eligible to receive operating assistance under the provisions of section eighteen-b of the transportation law, and the term "public transportation system" shall mean: (A) any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of the state, or a subsidiary thereof, directly or through a contract with another entity, that provides mass transportation services to the general public; or (B) any Indian tribe or any county, city, town or village that provides mass transportation services to the general public directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law.

8. Use. Transporter number plates issued under this section shall be used only for the limited operation of vehicles owned or controlled by

the registrant for the purpose of weighing, testing, dismantling, transporting or delivering the same, or for the purpose of moving such vehicles in connection with making installations thereon or improvements thereto, or the repossession or foreclosure thereof, or for the operation, for demonstration purposes, of any vehicle owned by a manufacturer, or for transporting or delivering the vehicle upon which the plates are displayed and additional vehicles carried in whole or in part upon such vehicle.

Except as provided in section four hundred sixteen of this article, dealer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for sale or demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the dealer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the dealer for commercial purposes other than directly affecting the sale or demonstration of that particular vehicle. In addition, dealer, manufacturer, or transporter number plates may be used for any non-self-propelled device used for the transport of modular homes. Except as provided in section four hundred sixteen of this article, manufacturer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the manufacturer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the manufacturer for commercial purposes other than directly affecting the demonstration of that particular vehicle.

Dealer, manufacturer, or transporter number plates issued upon renewal of a dealer, manufacturer, or transporter registration may be used

during the thirty day period immediately preceding the expiration date of such registration, including such expiration date.

9. Suspension, revocation and refusal to issue or to renew a registration. The commissioner or any person deputized by him may deny the application of any person for registration under this section and suspend or revoke a registration under this section or refuse to issue a renewal thereof if he or such deputy determines that such applicant or registrant or any officer, director, stockholder, or partner, or any other person directly or indirectly interested in the business:

a. Has made a material false statement in his application; or

b. Has used or permitted the use of number plates contrary to law; or

c. Has been guilty of fraud or fraudulent practices, or has practiced dishonest or misleading advertising; or

d. Has failed to comply with any of the rules and regulations of the commissioner for the enforcement of this article or with any provision of this chapter or article thirty-five-B of the general business law applicable thereto; or

e. Has wilfully violated any provisions of the motor vehicle retail instalment sales act, the motor vehicle retail leasing act or section one hundred ninety-eight-c of the general business law; or

f. Does not have a place of business within the meaning of this section; or

g. Has been convicted of any crime involving dishonesty or deceit; or

h. Was the former holder, or was an officer, director, stockholder, or partner, in a corporation or partnership which was the former holder of a dealer's registration, which was suspended or revoked by the commissioner.

9-a. Hearings; temporary suspension. (a) No registration shall be suspended or revoked, or renewal refused, except upon notice to the registrant and after an opportunity to be heard. Provided however, upon a written notice of temporary suspension delivered by certified mail to the registrant, a registration may be temporarily suspended pending a hearing. Any such notice of temporary suspension shall provide that the suspension is effective seventy-two hours after mailing of such notice and shall provide that a hearing be scheduled within ten days after the effective date of the temporary suspension.

(b) The applicant may be heard in person or by counsel. The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner or the commissioner's designee may inspect the pertinent books, records, letters and contracts of a registrant relating to any written complaint or charge against such registrant. The commissioner or the commissioner's designee shall have the power to subpoena and bring before a hearing officer any person in this state, and administer an oath to and take testimony of any person or cause the person's deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules.

10. Suspension and revocation of number plates. The commissioner may suspend or revoke number plates issued pursuant to subdivision four of this section, if he determines that the registrant to whom these plates have been issued has used or permitted the use of such number plates contrary to law or to the regulations of the commissioner with respect to the use thereof. The registrant to whom such number plates have been issued shall have an opportunity to be heard, and the provisions of subdivision nine of this section shall apply to hearings held under this subdivision, and to review of determinations made by the commissioner hereunder.

11. Following the suspension or revocation of the certificate of registration of a dealer, manufacturer, or transporter or number plates, pursuant to this section, the failure of the holder or any other person possessing the certificate of registration, number plates or certificates of sale issued to a dealer pursuant to the regulations of the commissioner, to deliver the same to the suspending or revoking

officer, peace officer acting pursuant to his or her special duties, police officer directed by the commissioner to secure possession thereof, or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such registration or number plates, shall be a misdemeanor.

If any person shall fail to deliver a certificate of registration, number plates or certificates of sale as provided herein, the commissioner shall forthwith direct any peace officer acting pursuant to his or her special duties or police officer to secure possession thereof and to return the same to the commissioner.

12. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the certificate of registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of paragraph c of subdivision nine of this section found to have been committed shall be no less than three hundred and fifty dollars and no more than one thousand five hundred dollars, except that if a finding of financial loss has been made pursuant to subdivision fourteen of this section, the amount of such penalty may be increased by the amount of financial loss so found, and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the certificate of registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the

name of the commissioner.

13. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

14. Restitution; assessment. a. Upon a determination that a registrant has done or failed to do any act for which suspension of the registrant's registration or a civil penalty against the registrant could be imposed, the person making such determination may make a finding of financial loss to any complainant or complainants resulting from the actions of the registrant. The person making such finding may provide that if the registrant makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted in lieu of any suspension or civil penalty, or a specified portion thereof imposed upon the registrant. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the registrant, and (ii) is not a party to any litigation which is pending or which has gone to judgment in relation to the same matter in any civil court.

b. The amount of financial loss which may be found and proposed as restitution shall be limited to an amount necessary to compensate the complainant or complainants for actual losses caused by the registrant's improper activity. Neither punitive nor incidental damages may be included in the finding of financial loss.

c. If payment of restitution to the complainant is authorized in lieu of all or a portion of a suspension or civil penalty, in order for the

registrant to exercise the option to make such payment, such payment must be made by means of a certified check or money order payable to the complainant or complainants delivered to an office of the department as directed by the commissioner or his agent within thirty days of the date of notice of suspension and/or civil penalty. Upon receipt of such certified check or money order, the department shall forward the same to the complainant or complainants. In the event that the registrant should fail to make payment for restitution within such thirty days, but, at a later time, pays such civil penalty, the department shall deduct from such civil penalty the amount assessed for restitution, and shall mail a check for such amount to the complainant or complainants.

d. If payment of restitution may be substituted in lieu of a civil penalty or portion of a civil penalty, and the registrant does not exercise the option to make such payment, the civil penalty becomes due as provided in subdivision twelve of this section and the provisions of that subdivision and subdivision thirteen of this section relating to suspension of registration and recovery of civil penalties shall apply.

e. Any payment made in compliance with such a finding of financial loss shall not preclude any civil action which may be brought by either the complainant or registrant, and any such finding may be considered but shall not be binding upon any court before which any such action is brought.

15. Miscellaneous provisions. The commissioner may, in his or her discretion, limit the number of sets of number plates which shall be issued to any registrant. The provisions of subdivision three of section four hundred one of this title with respect to the fee for lost, mutilated or destroyed certificates and number plates shall apply to certificates and number plates issued under this section.

In the event of the loss or theft of any dealer, manufacturer, or transporter number plate or set of such number plates whether with or without a date tag or tags, or any date tag or set of date tags, the dealer or manufacturer must immediately notify the police of such fact and in the event of loss, theft, mutilation or destruction of any such

items the dealer or manufacturer must immediately file a statement and proof of the facts as the commissioner shall require. The provisions of section four hundred two and four hundred eleven of this title with respect to the care and display of number plates shall apply to number plates issued under this section. Registration under this section shall be upon the condition that the registrant shall conform to such reasonable requirements as shall be prescribed by the commissioner.

The commissioner may, in his or her discretion, require a registrant to maintain a record in a prescribed form of all vehicles received or disposed of by him or her, which records shall be open at all times for inspection by the commissioner, his or her representatives and any peace officer, acting pursuant to his or her special duties, or police officer.

If registration under this section shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the registration shall not expire so long as any one of the persons named in such registration is a member of the partnership or carries on the business of the partnership as surviving member of the partnership. However, when any such change occurs and the registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner a statement regarding such partnership in such form and giving such information as the commissioner shall require, and the commissioner shall issue a new certificate of registration.

16. Unregistered operation; operation while suspended or revoked; procedures and penalties. a. The commissioner or any person deputized by him shall hear and determine any allegation that a person has operated as a dealer without being registered as required by subdivision three of this section or while registration is suspended or revoked. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in paragraphs b and c of this subdivision.

b. Except as provided in paragraph c of this subdivision, any person

who operates as a dealer without being registered shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a registration as required by this article, provided that application for such registration is made not more than ten days after the imposition of such penalty.

c. (i) Any person who operates as a dealer while his registration is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.

(ii) Any person who operates as a dealer without being registered as required by subdivision three of this section who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Any person who operates as a dealer without being registered as required by subdivision three of this section who has had two previous civil penalties assessed for unregistered operation not arising from the same incident all of which were committed within a period of thirty months shall pay to the people of this state a civil penalty in the sum of four thousand ten dollars. Such civil penalties may not be avoided.

(iii) No person who operates as a dealer without being registered as required by subdivision three of this section or while his or her registration is revoked or suspended shall park a motor vehicle, which he or she owns or controls and holds for sale or demonstration, upon a public highway of this state without first being registered in accordance with the provisions of section four hundred one of this chapter. Any such person shall, in addition to any penalties imposed pursuant to paragraph b of this subdivision or subparagraph (ii) of this paragraph, be required to pay to the people of this state an additional civil penalty of three hundred dollars for each motor vehicle owned or controlled and held for sale or demonstration by such person which is parked upon the public highways of this state without first being registered in accordance with the provisions of section four hundred one of this chapter.

d. The commissioner, or any person deputized by him, in addition to imposing a civil penalty for unregistered operation as a dealer, may, in any one proceeding, make a determination that the unregistered dealer has caused a financial loss to a complainant or complainants and may increase the civil penalty by the amount of financial loss. The person making such finding may provide that if the unregistered dealer makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted for the increase in the civil penalty caused by the finding of financial loss. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the unregistered dealer, and (ii) is not a party to any litigation which is pending or in which judgment has been entered in any civil action in any court of competent jurisdiction.

e. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

f. No allegation of unregistered operation as a dealer shall be heard or determined unless notice of such allegation has been mailed to such person within two years after the date of the alleged unregistered operation.

17. Improper display of signs. a. The holder of a dealer registration shall remove or cause to be removed any sign which contains the registration number of the dealer which is visible to the public and

which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the dealer is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it.

b. No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official dealer is operating unless a dealer registration has been issued to that person and is currently valid.

18. Rights of dealers. The rights of all new motor vehicle dealers under this article may be exercised from any location or locations which are from time to time approved by their franchisors and the commissioner as prescribed in this article. The rights of all qualified dealers under this article may be exercised from any location or locations from which they operate from time to time; provided, however, that no qualified dealer shall operate from more than two locations within the four counties of Kings, Queens, Nassau, and Suffolk; and provided further that no qualified dealer shall operate from more than one location in any one county. The total number of locations from which a qualified dealer may operate shall not exceed that number of locations operated by such qualified dealer on December thirty-first, nineteen hundred ninety-eight. It shall be unlawful for any person to interfere with the rights of, or discriminate against, any new motor vehicle dealer or any qualified dealer under this article. The commissioner shall penalize those persons who violate the provisions of this section as enacted by chapter four hundred fifty-one of the laws of nineteen hundred ninety-nine and the chapter of the laws of two thousand which amended this subdivision as provided by this section. Nothing contained in this article shall be construed to prohibit a new motor vehicle dealer, a qualified dealer, or a dealer, respectively, from utilizing the internet to engage in such activities as each are respectively permitted under this article and under other applicable laws, or affect where a new motor vehicle dealer or a qualified dealer may deliver a new motor vehicle.

19. Disclosures by qualified dealers; penalties. a. Every qualified dealer who advertises in newspapers, magazines, or by direct mail the availability of new motor vehicles for sale shall clearly disclose that such qualified dealer is not a franchised new motor vehicle dealer.

b. Every qualified dealer shall prominently and conspicuously post a sign, in such a manner that it is likely to be noticeable to anyone entering the premises, which sign shall clearly state: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work."

c. Every contract for the sale of a new motor vehicle entered into by a qualified dealer and the purchaser shall contain the following statement: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work."

d. A qualified dealer who fails to comply with the requirements of this subdivision, shall be subject to the penalties provided by this section. Further, a person who has purchased a new motor vehicle from a qualified dealer pursuant to a contract which does not contain the disclosure required under paragraph c of this subdivision, shall be entitled to rescind the sale and obtain full restitution of any amounts paid, plus reasonable court costs and attorneys fees, within four months of the date of purchase.

20. Restrictions on transferability and operation of certain qualified dealerships. a. A qualified dealer may sell, devise, assign, convey or otherwise transfer any or all of its assets, including without limitation all rights to conduct the activities of a qualified dealer hereunder and further, the owner of an equity interest in a qualified dealership may sell, devise, assign, convey or otherwise transfer any or all of its equity interest in such qualified dealership, subject to the conditions set forth in this subdivision. To the extent that such qualified dealer conducts such activities at more than one location as permitted under this article, then such qualified dealer may transfer

such rights on a location by location basis; provided, however, that such a transferee shall acquire no greater rights to relocate than those of his or her transferor, and provided further below, that such transferee shall remain subject to the provisions of this subdivision exactly as they applied to his or her transferor.

b. A transferee who acquires the assets and/or an equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section and is the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section without restriction.

c. A transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section who is not the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.

d. A transferee who acquires ten per cent or more of an equity interest after August 31, 1999 in a qualified dealer as defined in subparagraph (ii), (iii), or (iv) of paragragh g of subdivision one of this section and is a publicly traded corporation may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.

e. Each transferee who acquires substantially all of the assets and/or

a controlling equity interest in a qualified dealer from a transferee as defined in paragraph b, c or d of this subdivision shall not be permitted to sell a number of new motor vehicles in any calendar year in excess of the number of new motor vehicles sold by such transferor qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.

f. The rights of a qualified dealer under subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section are also deemed transferred for purposes hereof in the event that, after August thirty-first, nineteen hundred ninety-nine, (i) the controlling equity interest of such qualified dealer is transferred (in any one or series of transactions) to any person or persons, other than the parent, spouse, child or sibling of an individual who is an equity holder of such qualified dealer, or (ii) there occurs any merger, combination or consolidation of, with or into the business entity which constitutes such qualified dealer.

g. Nothing contained herein shall (i) prohibit a qualified dealer or the parent, spouse, child or sibling who is the equity holder of such qualified dealer from forming a corporation or limited liability company to operate and wholly own the qualified dealer; (ii) restrict the ability of a qualified dealer to transfer a controlling equity interest to a corporation or a limited liability company operated and wholly owned by an individual who is an equity holder of such qualified dealer; or (iii) restrict the ability of a qualified dealer to transfer an equity interest in the stock and/or assets of a qualified dealer to a full-time employee of such qualified dealer.

21. New motor vehicle etching kits. Every new motor vehicle dealer and every qualified dealer shall be required to stock etching kits that are capable of etching a traceable serial number onto the catalytic converter of a new motor vehicle that can be clearly seen and quickly linked back to the vehicle. Such etching kits shall be offered by every new motor vehicle dealer and qualified dealer to any person purchasing a new motor vehicle, at no more than the cost of such etching kit to such dealer.

22. Compliance. All dealers and automobile broker businesses registered under subdivisions three and three-a of this section shall certify and attest to compliance with sections three hundred ninety-nine-cc, as added by chapter 655 of the laws of 2005, three hundred ninety-nine-dd, as added by chapter 487 of the laws of 2006, three hundred ninety-nine-ddd, three hundred ninety-nine-h, three hundred ninety-nine-oo, three hundred ninety-nine-p, three hundred ninety-nine-pp, eight hundred ninety-nine-bb of the general business law, and part three hundred fourteen of title sixteen of the code of federal regulations as applicable.

23. Automobile broker record requirements. (a) For each completed transaction and within three business days of consummation thereof, automobile brokers shall maintain a permanent paper file record that clearly evidences and records the make, model, year, color and vehicle identification number of all previously unregistered motor vehicles for which such broker has provided a service of purchasing, arranging, assisting, facilitating or effecting the purchase or lease of such motor vehicle. Such records shall be maintained for a six-year period after consummation of the transaction. Such records shall also include the name and address of the purchaser or lessee of such motor vehicle, the date of sale or commencement of lease with respect to such motor vehicle and the name and address of the dealer from which the motor vehicle was purchased or leased.

(b) The records maintained by the automobile broker businesses shall include a copy of the dealer rate sheets received by the automobile broker from the dealers that were relied upon by the automobile broker in connection with such transaction.

(c) Such records shall be open for inspection by the commissioner, or his or her agent, during reasonable business hours.

(d) As an alternative to paper file records, an automobile broker may use a computer and appropriate software to maintain the records required to be kept by this section, provided all information required by paragraphs (a) and (b) of this subdivision are duly recorded and maintained in accordance with this subdivision.

24. Maintenance records. For each sale or lease of a motor vehicle that involves an automobile broker business, the dealer must obtain evidence of the automobile broker business' registration and the broker's registration number and maintain such records in the deal jacket for each transaction which also shall contain the purchase order, copies of the title and registration documents, the bill of sale and the retail installment sale contract required under article ten of the personal property law or the retail lease agreement required under article nine-A of the personal property law.

25. Broker compensation. No dealer may offer or pay an automobile broker business any fee, or commission, other than compensation disclosed pursuant to section seven hundred thirty-eight or seven hundred forty-one-b of the general business law or section three hundred two or three hundred thirty-seven of the personal property law; provided, however, that the automobile broker business may not accept any such fee or commission from the dealer if the broker has or will accept payment from the buyer or lessee of the automobile.