

# PROPOSED RULEMAKING

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[ 49 PA. CODE CH. 19 ]

### Out-of-State RV Dealer Registration Fee

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to amend § 19.4 (relating to fees) to read as set forth in Annex A.

#### *Effective Date*

The amendment will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Section 332.1(c) of the Board of Vehicles Act (act) (63 P.S. § 818.332a(c)), as amended under the act of October 24, 2018 (P.L. 816, No. 134), regarding recreational vehicle shows, recreational vehicle off-premise sales, recreational vehicle exhibitions and recreational vehicle rallies, requires an out-of-State recreational vehicle dealer to register with the Board before participating in a recreational vehicle show, off-premise sale, exhibition or rally in this Commonwealth. Section 332.1(c)(1)(v) of the act requires the registration to include payment of a participation fee.

Section 302(a)(9) of the act (63 P.S. § 818.302(a)(9)), regarding powers and duties of the Board, authorizes the Board to promulgate regulations, consistent with the act, that it deems necessary and proper to effectuate the provisions of the act. Additionally, under section 330(a) of the act (63 P.S. § 818.330(a)), regarding fees, the Board must set fees required under the provisions of the act by regulation.

#### *Background and Need for the Amendment*

Section 332.1(c) of the act permits recreational vehicle dealers licensed in another state or domiciled in another jurisdiction that does not require licensure of recreational vehicle dealers to participate in recreational vehicle shows, off-premise sales, exhibitions and rallies in this Commonwealth under certain circumstances and requires the out-of-state recreational vehicle dealer to register with the Board. Since this provision became effective, the Board has been receiving, reviewing and accepting these registration applications for each event in which an out-of-State recreational vehicle dealer intends to participate without charging a fee for this service.

Section 332.1(c)(7) of the act requires the out-of-State recreational vehicle dealer to engage in at least four of five business activities in a state that is contiguous to this Commonwealth. Those activities include: (1) accepting delivery of recreational vehicles from the manufacturer; (2) maintaining of inventory offered for sale to the public; (3) consummating and finalizing recreational vehicle sales; (4) service and repair of recreational vehicles; and (5) delivery of recreational vehicles to buyers along with titling, registration and collection of taxes. Section 318 of the act (63 P.S. § 818.318) also authorizes the

Board to take disciplinary action against recreational vehicle dealers for violations of these provisions.

Before the act was amended in 2008 under the act of July 9, 2008 (P.L. 1007, No. 77), recreational vehicle dealers from states that did not provide for reciprocity with this Commonwealth would set up “shell” dealerships in contiguous states with reciprocity for the sole intent of participating in shows and other sales events in this Commonwealth. Many contiguous states did not have facility requirements for a recreational vehicle dealership. Consumers in this Commonwealth were led to believe they were buying from a full-service dealership in a contiguous state. However, the actual dealership and facilities necessary to pick up the recreational vehicle, and later service the recreational vehicle, may have been far beyond the borders of this Commonwealth.

The requirements mandated under section 332.1(c) of the act require substantial expenditure of staff time to evaluate the applications for registration and ensure that reasonable protections are in place for consumers in this Commonwealth. To cover the cost of providing this service, the Board proposes charging a fee of \$65. Currently, the Board processes these applications without collecting a fee. The purpose of this proposed rulemaking is to set a fee for out-of-State recreation vehicle dealer registrations.

#### *Description of the Proposed Amendments*

Board fees are listed in § 19.4 of the Board’s regulations. This proposed rulemaking proposes to add a \$65 fee for out-of-State recreational vehicle dealer registrations, as discussed previously. Actual cost calculations for application fees are based upon the following formula:

$$\begin{aligned} & \text{number of minutes to perform the function} \\ & \qquad \qquad \qquad \times \\ & \text{pay rate for the classification of the personnel} \\ & \qquad \qquad \qquad \text{performing the function} \\ & \qquad \qquad \qquad + \\ & \text{a proportionate share of administrative overhead} \end{aligned}$$

This fee is borne by individual applicants. The proposed fee is designed to offset the cost to the Board to review and process an application for an out-of-State recreational vehicle dealer registration plus a portion of the Board’s administrative overhead.

#### *Fiscal Impact and Paperwork Requirements*

Under this proposed rulemaking, out-of-State recreational vehicle dealers applying for registration will incur costs by having to pay a \$65 fee for registration. Should an out-of-State recreational vehicle dealer return to this Commonwealth for another show the same year, they will be required to file another application with the Board. The Board anticipates approximately 100 applications per year, for a total fiscal impact of \$6,500 annually. This proposed rulemaking should have no adverse fiscal impact on the Commonwealth, its political subdivisions or the private sector.

Because the Board has already been receiving and processing these applications without collecting a fee, other than making minor revisions to the application form, this proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

*Sunset Date*

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 24, 2020, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

*Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to the Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov within 30 days of publication of this proposed rulemaking in the *Pennsylvania*

*Bulletin*. Please reference No. 16A-6011 (out-of-State recreational vehicle dealer registration fee), when submitting comments.

DANIEL MURPHY, III,  
*Chairperson*

**Fiscal Note:** 16A-6011. No fiscal impact. The fee has been calculated to cover the cost of the service; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS**

**GENERAL PROVISIONS**

**§ 19.4. Fees.**

The following is the schedule of fees charged by the Board:

	* * * * *
Salesperson change of employer transfer application .....	\$25
<b><u>Out-of-State recreational vehicle dealer registration .....</u></b>	<b><u>\$65</u></b>
Business name or post office address change .....	\$30
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[Pa.B. Doc. No. 20-1739. Filed for public inspection December 11, 2020, 9:00 a.m.]