

MOTOR VEHICLE DEALER BOARD

CHAPTER 40 INDEPENDENT MOTOR VEHICLE DEALER OPERATOR RECERTIFICATION REGULATIONS

Part I General Provisions

24VAC22-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Anniversary month" means the month in which a person became a certified dealer operator.

"Board" means the Motor Vehicle Dealer Board.

"Certificate of qualification" means a designation issued by the board acknowledging that the individual has been certified by the board as dealer operator pursuant to § 46.2-1511 of the Code of Virginia.

"Course" means a course of study leading to recertification for independent dealer operators offered by correspondence, electronically, or in person.

"Course provider" or "provider" means any person or entity presenting or offering one or more recertification education courses.

"Exam" or "examination" means a test administered by the board.

"Executive director" means the executive director of the board.

"Franchise motor vehicle dealer" means a dealer in new motor vehicles that has a franchise agreement with a manufacturer or distributor of new motor vehicles, trailers, or semitrailers.

"Independent dealer operator" means the individual who works at the established place of business of an independent dealer and who is responsible for and in charge of day-to-day operations of that place of business.

"Independent motor vehicle dealer" or "independent dealer" means a dealer in used motor vehicles who is not also licensed as a franchise motor vehicle dealer.

"Original application" means an application for an independent dealer operator certificate of qualification from an applicant who has never been issued an independent dealer operator certificate of qualification in Virginia or whose Virginia independent dealer operator certificate of qualification has been expired for more than 60 days.

"Recertification" means completing the requirements of this chapter to recertify a dealer operator certificate of qualification.

24VAC22-40-20. General.

A. The board shall transmit a recertification notice to the home address or email address of record of independent dealer operators at least 90 days prior to the expiration date of the certificate of qualification. Failure to receive a recertification notice does not absolve the dealer operator from the recertification requirements.

B. Independent dealer operators must maintain an original copy of the proof of completing a recertification course or exam for a period of five years.

C. Continuing education or a course required by a disciplinary order may not be used to satisfy recertification requirements.

Part II
Recertification

24VAC22-40-30. Recertification schedule.

A. Independent dealer operator certificates of qualification are valid for 36 months and shall expire on the last day of the thirty-sixth month. Certificates of qualification shall be deemed not to have expired if the recertification is completed within 60 days of the expiration date.

B. All independent dealer operators must recertify according to the following schedule:

1. Independent dealer operators certified after January 1, 2010, must complete the recertification requirement within 36 months of the anniversary month of their original qualification and every 36 months from their anniversary month thereafter.

2. Independent dealer operators who were certified between January 1, 2006, and December 31, 2009, must complete the recertification requirement by their 2013 anniversary month and every 36 months from their anniversary month thereafter.

3. Independent dealer operators who were certified between January 1, 1995, and December 31, 2005, must complete the recertification requirement by their 2012 anniversary month and every 36 months from their anniversary month thereafter.

4. Independent dealer operators whose original qualification date is prior to January 1, 1995, must complete the recertification requirement by their 2011 anniversary month and every 36 months from their anniversary month thereafter.

C. Independent dealer operators may complete the recertification requirement up to six months prior to the expiration date of their certificate of qualification.

D. The executive director may for good cause grant an extension for the completion of the recertification requirements provided a written request from the dealer operator is received by the executive director at least 15 days prior to the expiration date. Such extension shall not relieve the licensee of the recertification requirement.

E. Any application received from an applicant whose certificate has expired shall be considered an original application.

F. For independent dealer operators who have served outside of the United States in the armed services of the United States, the certification shall be deemed not to have expired if the recertification requirement has been completed not more than 90 days from the date they are no longer serving outside the United States in the armed services of the United States.

24VAC22-40-40. Recertification requirements.

To become recertified, an independent dealer operator must either:

1. Successfully complete a board-approved course; or
2. Successfully complete an examination administered by the board. Any independent dealer operator taking and failing the exam must then successfully complete a course in order to become recertified.

Part III
Course Providers

24VAC22-40-50. Course approval.

A. The board may approve a course provider under the following provisions:

1. The provider has submitted an application to the board prior to offering the program.
2. The submitted application includes at a minimum the following information:
 - a. Name of provider;
 - b. Proposed course schedule including locations (as applicable);
 - c. Charges to participants;
 - d. Description of program content and objectives;
 - e. Credentials of faculty members;
 - f. Method of delivery;
 - g. Evaluation procedure;
 - h. Mechanism for recordkeeping; and
 - i. Any such information as the board deems necessary to assure quality and compliance.

3. Course curriculum must include but is not limited to the following:
 - a. Ethical practice;
 - b. Recordkeeping;
 - c. Recent state and federal laws and regulations;
 - d. Review of relevant federal regulations;
 - e. Titling and registration requirements including use of dealer related license plates;
 - f. Offsite sales;
 - g. Financing;
 - h. Dealer practices;
 - i. Salespersons licenses; and
 - j. Advertising.

4. At least six hours of each course offering if in person or the equivalent of six hours for electronic and correspondence based courses, as approved by the executive director, must be directly related to the scope of dealer operators. A course containing content which promotes, sells, or offers goods, products, or services shall not be approved. However, the provider of a course may promote goods, products, or services at the conclusion of a course provided that it is made clear to participants that the course has concluded and that attendance at any additional presentations are optional.

B. The board shall notify the provider within 60 days following the receipt of a completed application of approval or disapproval of a program.

C. The board shall periodically review and monitor programs.

D. Any changes in the information previously provided about an approved program or provider must be submitted to the board. Failure to do so may cause the board to withdraw its approval of the course provider or program.

E. The executive director has the authority to suspend the approval of any course or provider and the board may withdraw approval for good cause.

24VAC22-40-60. Course provider responsibilities.

The provider of an approved program shall be responsible for the following:

1. Providing to each participant who successfully completes the required recertification course a certificate with at minimum, (i) the name of the provider; (ii) name of the participant; and (iii) the date of completion.
2. Maintaining all records on courses and its participants for a period of five years and making those records available to the board upon request.
3. Entering names of participants completing the course into a database as directed by the board within five days of the participant completing the course.
4. Collecting the recertification application fee from applicants and transmitting such fee to the board as directed by the board within 15 days of receiving the fee from the applicant.

Part IV
Fees

24VAC22-40-70. Fees.

A. The recertification application fee shall be \$25 for taking the course and shall be paid directly to the course provider.

B. The fee for returned checks shall be \$35.

C. In addition to the recertification application fee, course providers may charge applicants a course fee of no more than \$250.

D. The recertification application fee for taking the exam shall be \$50 and shall be paid at the time the exam is administered.