

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-5-12-.02

Rule Title: Surety Bond and Surety Bond Continuation Form for New and Used Motor Vehicle Dealers, Motor Vehicle Wholesalers, Motor Vehicle Reconditioners, and Motor Vehicle Rebuilders

XX New; _____ Amend; _____ Repeal; _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer [Signature]

Date 4/30/12

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-5-12-.02

Rule Title: Surety Bond and Surety Bond Continuation form for New and Used Motor Vehicle Dealers, Motor Vehicle Wholesalers, Motor Vehicle Reconditioners, and Motor Vehicle Rebuilders.

New Amend Repeal Adopt by Reference

- NO
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

APA-2
11/96

**ALABAMA DEPARTMENT OF REVENUE
Motor Vehicle Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-5-12-.02 Surety Bond and Surety Bond Continuation Form for New and Used Motor Vehicle Dealers, Motor Vehicle Wholesalers, Motor Vehicle Reconditioners, and Motor Vehicle Rebuilders

INTENDED ACTION: Adopt a new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to promulgate the above rule to provide the requirements for posting surety bonds and surety bond renewal certificates for new and used motor vehicle dealers, motor vehicle wholesalers, motor vehicle reconditioners, and motor vehicle rebuilders.

RULE NO. & TITLE

810-5-12-.03 Bond Claim for New Motor Vehicle Dealers, Motor Vehicle Wholesalers, Used Motor Vehicle Dealers, Motor Vehicle Reconditioners, and Motor Vehicle Rebuilders

INTENDED ACTION: Adopt a new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to promulgate the above rule to provide procedures for making a bond claim for new and used motor vehicle dealers, motor vehicle wholesalers, motor vehicle reconditioners, and motor vehicle rebuilders.

RULE NO. & TITLE

810-8-5-.01 Sign Requirements Pertaining to New and Used Motor Vehicle Dealers

810-8-5-.02 Requirement Relating to a Camera Photograph Pertaining to New and Used Vehicle Dealers Regulatory License

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes repeal the above rules due to the fact that they are being superseded by proposed new Rule 810-5-12-.01.

RULE NO. & TITLE

810-8-5-.07 Bond for New Motor Vehicle Dealers, Used Motor Vehicle Dealers, Motor Vehicle Reconditioners, Motor Vehicle Rebuilders, or Motor Vehicle Wholesalers

810-8-5-.08 Bond Continuation Certificate for New Motor Vehicle Dealers, Used Motor Vehicle Dealers, Motor Vehicle Reconditioners, Motor Vehicle Rebuilders, or Motor Vehicle Wholesalers

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes repeal the above rules due to the fact that they are being superseded by proposed new Rule 810-5-12-.02.

RULE NO. & TITLE

810-8-5-.09 Bond Claim for New Motor Vehicle Dealers, Used Motor Vehicle Dealer, Motor Vehicle Reconditioner, Motor Vehicle Rebuilders, or Motor Vehicle Wholesalers

INTENDED ACTION: Repeal the above rules

SUBSTANCE OF PROPOSED ACTION: The department proposes repeal the above rules due to the fact that they are being superseded by proposed new Rule 810-5-12-.03.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Thursday, June 7, 2012, in the Office of the Legal Division, Room 3114, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132 at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Thursday, June 7, 2012

CONTACT PERSON AT AGENCY:

Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

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810-5-12-.02 Surety Bond and Surety Bond Continuation form for New and Used Motor Vehicle Dealers, Motor Vehicle Wholesalers, Motor Vehicle Reconditioners, and Motor Vehicle Rebuilders. (NEW RULE)

(1) Section 40-12-398, Code of Alabama 1975, requires new and used motor vehicle dealers, motor vehicle wholesalers, motor vehicle reconditioners, and motor vehicle rebuilders to execute and deliver to the Department a surety bond. The surety bond shall be executed by a surety company authorized to do business in the State of Alabama. The bond shall be conditioned that the new or used motor vehicle dealer, wholesaler, motor vehicle reconditioner, or motor vehicle rebuilder shall comply with the conditions of any contract made by such dealer in connection with the sale or exchange of any motor vehicle and shall not violate any of the provisions of law relating to the conduct of the business for which he is licensed. Such bond shall be payable to the commissioner and to his/her successors in office, and shall be in favor of any person who shall recover any judgment for any loss as a result of any violation of the conditions previously described in this rule. The amount of the surety bond is twenty-five thousand dollars (\$25,000) for new motor vehicle dealers and ten thousand dollars \$10,000 for used motor vehicle dealers, wholesalers, motor vehicle reconditioners and motor vehicle rebuilders.

(2) The surety bond form shall contain the following information:

(a) Legal name of business and trade name or DBA (if applicable) and mailing address.

(b) Name(s) and signature(s) of representative(s) of business authorized to execute surety bond on behalf of the business.

(c) The name and address of the surety company providing the coverage.

(d) The effective date and the expiration date of the bond coverage. (See Section 4)

(e) The issue date of the bond.

(f) The original signature of an agent of the surety company.

(3) BOND REQUIREMENTS:

(a) The bond must be accompanied by an original power of attorney form, indicating that the agent is authorized to execute the bond on behalf of the surety company.

(b) The bond form and power of attorney must have the same issue date.

(c) The bond form shall be an original with original signatures. No facsimiles, photocopies, letters or phone calls are acceptable substitutes for the original bond.

(4) COVERAGE PERIOD: The coverage may not be for a period of more than one year. It must not begin prior to October 1 and must expire on September 30 of the same license year (required for new surety bonds and surety bond continuation certificates).

(5) Section 40-12-398, Code of Ala. 1975, requires new motor vehicle dealers, used motor vehicle dealers, motor vehicle wholesalers, motor vehicle reconditioners, and motor vehicle rebuilders to provide a new surety bond or proper continuation certificate at the beginning of each license year. A new bond shall conform with the requirements as set out in Sections one through five of this rule. A surety bond continuation certificate may be filed in lieu of a new surety bond provided that the following requirements are met:

(6) ACCEPTANCE OF CONTINUATION CERTIFICATE: A proper continuation certificate will be accepted, provided:

(a) Applicant was licensed and in good standing in the previous license year.

(b) Applicant has previously provided a proper original bond form or a proper continuation certificate for each subsequent license year. There can be no lapse in bond coverage since the original bond was presented to the Department.

(7) The continuation form shall provide the following information:

(a) The name of the surety company providing coverage.

(b) The bond number as assigned on the original bond form.

(c) The dollar amount of the extended bond coverage.

(d) Legal name of business and trade name or DBA (if applicable) and mailing address.

(e) Name(s) and signature(s) of representative(s) of business authorized to execute surety bond on behalf of the business.

(f) The effective date and the expiration date of the extended coverage. (See Section 4)

(g) The issue date of the continuation certificate.

(8) ORIGINAL CONTINUATION CERTIFICATE REQUIREMENTS: The continuation certificate must contain the original signature of an authorized agent of the

surety company, or the original seal of the surety company. The agent's copy will not be accepted.

(9) Effective August 1, 2012, all surety bonds and surety bond continuation certificates will be generated for completion upon receipt of the motor vehicle used or new car dealer, motor vehicle wholesaler, motor vehicle reconditioner or motor vehicle rebuilder regulatory license application and the required fee(s) (see rule 810-5-12-.01). Altered or recreated surety bonds and surety bond continuation certificates are not acceptable.

Author: Mike Gamble

Authority: Sections 40-2A-7(a)(5), 40-12-392 and 40-12-398, Code of Alabama 1975.

History: