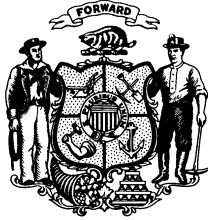


# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

Ronald Sklansky  
Director  
(608) 266-1946

Richard Sweet  
Assistant Director  
(608) 266-2982



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 95-087

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### 1. Statutory Authority

The analysis to the rule states that “salvage dealers, wholesalers, moped dealers and RV dealers (i.e., mobile home dealers engaged in the sale of nonmotorized recreational vehicles) will still be required to submit financial statements.” Under s. Trans 140.028 (1) (c), the department is given authority to require a motor vehicle salvage dealer to submit information relating to its financial standing, solvency or responsibility merely because the applicant or licensee is a motor vehicle salvage dealer. However, under s. 218.21 (1m) and (4) (a), Stats., the department is prohibited from requiring information relating to the applicant’s solvency or financial standing if the applicant for a salvage dealer’s license supplies a bond in the amount provided under s. 218.21 (4) (a), Stats., and under the conditions specified in s. 218.01 (2) (h) 2., Stats.

#### 2. Form, Style and Placement in Administrative Code

- a. In SECTION 1 of the rule, “Security and” should follow, not precede, “Licensing.”
- b. Since the first sentence of s. Trans 140.022 (1) does not grammatically lead into the following subunits, the sentence should be renumbered as par. (a) with an appropriate title. The remaining paragraphs should be renumbered accordingly. Further, the new par. (a) should clearly specify the purpose for requiring a surety bond or letter of credit. A cross-reference to s. 218.01 (2) (bb), Stats., may be useful in this regard.
- c. Section Trans 140.022 (1) (a) states that the surety bond must be issued by a bonding company “licensed by the state.” Either this provision should be revised or a note should be

included to state that, under ss. 632.14 to 632.18, Stats., surety insurance is regulated by the Commissioner of Insurance.

d. Section Trans 140.20 (1) defines the term “claim arose.” In order to comport with the normal format for a definition, the first sentence of the subsection should be rewritten to read:

“Claim arose against the bond or letter of credit of a licensee” means a situation in which a cause of action has accrued against the licensee.

e. In s. Trans 140.23 (1) (c), the word “through” should be replaced by the notation “~~through~~ to.”

f. In s. Trans 140.25 (4), in the last sentence, the phrase “the secretary’s” should be inserted before the word “designee.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. Section Trans 140.022 (1) (a) refers to a required form. The department should ensure that the requirements of s. 227.14 (3), Stats., are met.

b. In s. Trans 140.027 (2) (a), the phrase “rules interpreting those provisions” should be replaced by a reference to “this chapter,” “this subchapter” or an appropriate numerical cross-reference. [See also the use of the phrase “related rules” in s. Trans 140.028 (1) (b).]

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Section Trans 140.02 (1) defines the term “asset.” The definition would be clearer if it specified the party or parties who owned anything of value.

b. In s. Trans 140.02 (9), the phrase “either now or in the future” does not appear to add anything to the definition and could be deleted.

c. In s. Trans 140.022 (2), in order to preserve consistent use of the singular and plural forms, the sentence should be rewritten to read: “A motor vehicle dealer or applicant for a motor vehicle dealer license shall provide and maintain in force a bond or a letter of credit....” [See also s. Trans 140.027 (2) (a).]

d. In s. Trans 140.027 (1), in the third sentence, the phrase “of this section” is unnecessary and should be deleted. Also, in the last clause of the subsection, should the word “may” be replaced by the word “shall”?

e. In s. Trans 140.027 (2) (a), it appears that the two occurrences of the phrase “of licensed dealers” should be replaced by the phrase “against licensed dealers.” Also, in par. (b) 2., to what does the phrase “similar violations” refer? A repetition of the appropriate phrase used in sub. (2) (a) may be appropriate.

f. In s. Trans 140.027 (3) (a), the phrase “previous 12 months” should be made clearer by describing the event or date which provides the end point for the previous 12 months.

g. In s. Trans 140.027 (4), the reference to “other procedures available” can be clarified by an appropriate cross-reference.

h. Section Trans 140.028 (1) (d) can be clarified by replacing the semicolon with a period and rewriting the second sentence to read: “‘Reasonable cause’ includes a situation in which the licensee, applicant or employees of the licensee or applicant have been found by the department....”

i. In s. Trans 140.09 (2) (a), in the table entry for a motorcycle dealer, should the first occurrence of the word “or” be replaced by the word “to”? Or, if the \$5,000 figure applies to the sale of motorcycles and no other types of motor vehicles, while the \$25,000 figure applies to combined sales, this should be clarified. [See s. 218.01 (2) (bb), Stats.]

j. In s. Trans 140.21 (2) (d), should the word “bonded” be stricken through? [See also s. Trans 140.22 (1) (a).]

k. In s. Trans 140.22 (1) (b), should the first occurrence of the word “to” be replaced by the notation “~~to~~ by,” in order to be consistent with par. (a)?