

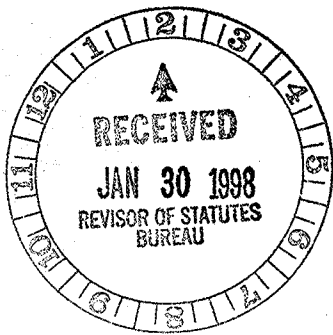
Clearinghouse Rule 96-166

RULES CERTIFICATE

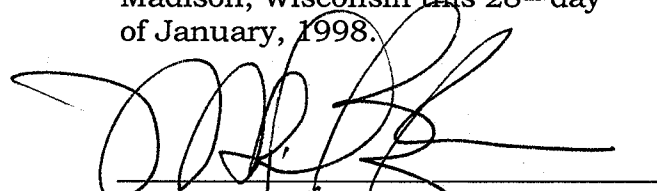
State of Wisconsin)
) ss.
Department of Administration)

I, Mark D. Bugher, Secretary of the Wisconsin Department of Administration, and custodian of the official records, certify that the attached administrative rule relating to licensing periods and fees for manufactured home dealers and salespersons, was duly approved and adopted by the Department of Administration on January 28, 1998.

I further certify that this copy has been compared by me with the original on file with this Department and that it is a true copy thereof and of the whole of such original.



IN TESTIMONY WHEREOF, I have
Hereunto set my hand in the City of
Madison, Wisconsin this 28th day
of January, 1998.



Mark D. Bugher, Secretary
Department of Administration

4-1-98

96-166

ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create Chapter Adm 68.

Analysis prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1), 218.11(2)(b) 1, 218.11(2)(b) 2, 218.12(2)(b) 1, and 218.12(2)(b) 2, Stats.

Statutes Interpreted: ss. 218.01(5)(a), 218.11, and 218.12

Section 218.101, Stats., was created in 1991 Wisconsin Act 269, authorizing the Department of Administration to administer subchapter VI of Chapter 218 as it relates to manufactured/mobile home dealers and salespersons engaged in the sale of primary housing units. This Chapter establishes the period, expiration date and fee for licenses issued to manufactured home dealers and salespersons. It also establishes the period, expiration date and fee for registration plates issued to dealers.

Manufactured/mobile homes dealers and salespersons have been regulated under the former chapter Trans 144 since the program was transferred to the Department of Administration in July, 1992. Chapter Trans 144 is not being repealed by the Department because it is currently used by Department of Transportation for the regulation of recreational vehicle dealers and salespersons since they continue to be licensed by the Department of Transportation, Division of Motor Vehicles.

TEXT OF RULE:

SECTION 1: Chapter Adm 68 is created to read:

Chapter Adm 68

LICENSING PERIODS AND FEES FOR MANUFACTURED HOME DEALERS AND SALESPERSONS

Adm 68.01 PURPOSE. This chapter establishes the periods, expiration dates and fees for licenses issued by the department under s. 218.11 and 218.12, Stats., to manufactured home dealers and salespersons. It also establishes the periods, expiration dates and fees for registration plates issued to dealers.

Adm 68.02 DEFINITIONS. Words and phrases in this chapter have the same meaning as found in chs. 218 and 340, Stats., unless additional interpretations are specified. In this chapter:

- (1) "Branch" means a non-adjacent sales location in the same municipality.
- (2) "Business license" means a license issued by the department under s. 218.11, Stats., to a mobile home dealer.
- (3) "Department" means the department of administration.
- (4) "Individual license" means a license issued by the department under s. 218.12, Stats., to a salesperson.

(5) "Initial license" means a license issued to a person or business which does not have a license at the time of application.

(6) "Manufactured home" or "home" means a mobile home which is transportable in one or more sections, which in the traveling mode, is more than 8 feet 6 inches in width or more than 45 feet in length, or when erected on site, is more than 340 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, electrical systems contained in the manufactured home. Calculations used to determine the number of square feet in a structure shall be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections contacting the interior space, but do not include bay windows. For purposes of this chapter, the measurement of length shall be determined in accordance with s. 348.07(3), Stats.

(7) "Sublot" means a non-adjacent display lot in the same municipality.

Adm 68.03 LICENSE PERIODS AND EXPIRATION DATES. (1) BUSINESS LICENSES. (a) General licensing period and expiration dates. The license period for a business license is 2 years. The department may issue licenses that start and expire on the following dates:

<u>Date Issued</u>	<u>Date Expired</u>	
February 1	January 31	
April 1	March 31	All expiration
June 1	May 31	dates are in the
August 1	July 31	second year after
October 1	September 30	the date the
December 1	November 30	license was issued.

(b) Initial business licenses. The department may issue initial business licenses that go into effect on the dates other than the first day of an even numbered month. The licenses shall expire before the end of two years and the expiration dates shall be as follows:

<u>Month Issued</u>	<u>Expiration Date</u>
December or January	Last November 30 before the end of 2 yrs.
February or March	Last January 31 before the end of 2 yrs.
April or May	Last March 31 before the end of 2 yrs.
June or July	Last May 31 before the end of 2 yrs.
August or September	Last July 31 before the end of 2 yrs.
October or November	Last September 30 before the end of 2 yrs.

(2) INDIVIDUAL LICENSES. (a) Licensing period. The department may issue a salesperson license that remains valid until one of the following conditions occur:

1. The business license held by the person's current employer expires.

2. The person ceases employment with a licensed dealer.
3. The person's employer goes out of business.
4. The department suspends or revokes the person's license.

(b) Transfer Licenses. A person whose salesperson license is invalidated by ceasing employment with a licensed dealer may request the department to transfer their salesperson license to a new employer without charge, as long as the department receives the application before the new employer's dealer license expires.

(3) REGISTRATION PLATES. The department may register and issue plates to business licensees for periods concurrent with the license periods described in this section.

Adm 68.04 LICENSE AND REGISTRATION PLATE FEES. (1) The department shall collect the fees established in the following table from applicants before issuing their licenses or registration plates.

<u>Type of License</u>	<u>Type of Fee</u>	<u>Amount</u>
Manufactured home dealer	License	\$100
	Registration--2 plates	\$230
	Additional plates	\$ 25
	Replacement plates	\$ 25
Branch	License	\$100
Sublot	License	\$ 50
Salesperson	License	\$ 8

(2) When the department issues a salesperson license for less than the employer's business license period, it may reduce the license fee by \$4 for each full year reduction in the salesperson license period.

Final Regulatory Flexibility Analysis:

1. Types of small businesses that will be affected by the rule:

There are currently 158 licensed mobile home dealers who employ less than 25 individuals. We are unable to determine the gross annual sales for each mobile home dealer.

2. Reason for failing to include in the rule any of the methods specified in s. 227.114(2), Stats.:

The proposed rule increases the licensing fee by an average of \$40 per year in order to increase revenue to fully fund the program. In response to concerns raised, the department revised the fee increases to affect all dealers equally.

3. Summary of issues raised by small businesses during the hearing of the rule, any changes in proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses:

Attached is a summary of all comments received and the Department's response to each comment.

4. Reporting, bookkeeping, and other procedures required for compliance with the rule:

None.

5. Nature and cost of other measures and investments that will be required for compliance with the rule:

None.

6. Additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under s. 227.114(2), Stats.:

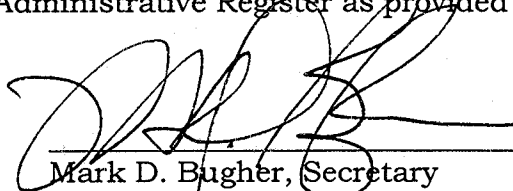
None.

7. Impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under s. 227.114(2), Stats.:

None.

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro)., Stats.

Dated: 1/28/98



Mark D. Bugher, Secretary
Department of Administration

FISCAL ESTIMATE DOA-2048 (R10/92)	<input type="checkbox"/> ORIGINAL <input checked="" type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	1996 Session LRB or Bill No /Adm. Rule ADM 66-68 Amendment No. if applicable
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Subject
 Transfer of mobile home regulation administrative rules from DOT to DOA under the Division of Housing, including increase of dealer fees

Fiscal Effect State <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <input type="checkbox"/> Increase Existing Appropriation <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Costs - May be possible to absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local <input type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> VTAE Districts
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Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Ch. 20 Appropriations s. 20.505(7)(j)
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Assumptions Used in Arriving at Fiscal Estimate

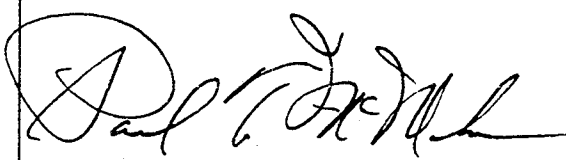
The regulation of mobile home dealers was transferred from the DOT to DOA, Division of Housing (DOH), beginning fiscal 1993 in an effort to centralize mobile home programs under one office. Since then DOA has had until now to carry out the routine, administrative matter of transferring the administrative rules from DOT to DOA. Three DOT chapters covered the regulation of mobile home dealers: Trans 140, 141, & 144. To accomplish the transfer three new DOA rules are created under this proposal: Adm 66, 67, & 68.

The new Adm rule language is identical to the language used under the old Trans chapters with the exception of Chapter Adm 68, which defines the fees that dealers must pay. The new rule proposes a dealer fee increase.

Since DOH took over the responsibility of administering the mobile home dealer program the fund has been inadequately funded due to insufficient fee revenue to cover the costs necessary to administer the program. Fund shortfalls in FY 93 and FY 95 have been prevented through cost shifts or by using limited GPR funds. To eliminate the annual program funding deficiency, the new rule proposes that dealer fees be increased.

Under the existing rule dealers with two salespeople would pay \$266, under the new rule they would pay \$346, or an additional \$80 every two years. On average the change results in an additional \$40 per year per dealer. Assuming 158 dealers, DOH estimates that the new fees would generate an additional \$6 320 annually (158 x 40), which is the amount needed to meet the costs required to administer the program based on FY 98 projections.

Long-Range Fiscal implications
 None.

Agency/Prepared by: (Name & Phone No.) Ryan Gill, 6-6497	Authorized Signature/Telephone No.  Paul McMahon 6-1359	Date November 18, 1997
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Summary of DOA Public Hearing
For Adm 66, 67 and 68
April 24, 1997

In attendance: Scott Slattery, Wisconsin Manufactured Housing Association (WMHA), appearing in opposition.

Mark Saunders, Lee Martinson, Terri Lenz and Gary Gorlen of DOA.

Listed below is a summary of the testimony presented by Mr. Slattery of the WMHA and the Department's responses.

Comments regarding Adm 66

1. The former Trans 140 referenced that the rule applied to mobile home dealers who were selling recreational vehicles - in 218.11(3) - in licensing for mobile homes relating to the sale of recreational vehicles. The question was raised whether the Department is creating a whole new body of regulation for the industry or if it a transfer of regulations?

Department's Response to No. 1: The regulations in Trans 140 for the mobile home program transferred to the Department of Administration from the Department of Transportation. The Department is adopting new standards based on the former Chapters Trans 140, 141 and 144.

2. A member of the WMHA indicated that they sell both modular and manufactured homes and if they sell only modular homes, there is no financial requirement in Adm 66. Is there any public policy rationale for treating manufactured homes differently than modulars?

Department's Response to No. 2: The Department of Commerce, Division of Safety and Buildings regulates modular homes and the manufacture of "manufactured homes" pursuant to Chapter 101 of the Wisconsin Statutes. The Department of Administration regulates and licenses dealers of manufactured home. In short, the Department has no jurisdiction over modular homes. This is the scheme provided by the Legislature which the Department must follow.

3. In Adm 66.03(1), the word "may" was changed to "shall" making it mandatory to provide all of the items listed on the financial sheet. What is the reason for this change?

Department's Response to No. 3: The Department has determined that applicants must provide all of the items listed in Adm 66.03(1)(a) through (g), in order to properly evaluate applicants; therefore, the "may" has been changed to "shall" to make this information mandatory.

4. Adm 66.08 references only mobile home dealers. Suggest adding mobile or manufactured home to be consistent with the rest of the code.

Department's Response to No. 4: The words "mobile home" have been deleted in Adm 66.08. The section now applies to "dealers" as defined in Adm 66.02(8).

5. In Adm 66.09(2), the Department eliminated the option of a bond. The Association believes that under certain circumstances there may be a need for a bond in order to pay off judgments. An example would be a long-time dealer who has substantial assets but because of how the books are handled, it shows little or no net worth. The Association would like to go to bonding.

Department's Response to No. 5: The Department agrees that the bonding option would be a good idea if there was also a review process for claims and a hearing examiner for handling disputed claims. However, the department is not equipped for a bonding process and, therefore, suggests another option for responding to this concern. The Department has amended Adm 66.09(2)(a) to reduce the financial statement requirements for the number of homes sold and net worth requirements.

Comments Regarding Adm 67

1. In Adm 67.03, the language regarding relocation was eliminated and placed in Adm 67.07. The Association requests moving the language regarding relocation back to Adm 67.03.

Department's response to No. 1: The rule has been amended as requested.

2. In Adm 67.04(1)(f), homes that go onto private property do not pay a sales tax but it is put into a use tax. The dealer can't disclose the sales tax per DOR regulations. In addition, there is no title or title fees for homes on private property. Recommends adding "if applicable" to the sales tax and titling section.

Department's response to No 2: The requested language has been added to this section.

3. Adm 67.04(4), includes a section regarding "cooling off period" which appears to create a 3 day right to cancel on any sale (such as a park listing). Recommend moving language to Adm 67.07(5) under "temporary sales locations."

Department's response to No. 3: The rule has been amended as requested.

4. Recommend adding the words "if applicable" in Adm 67.07(6)(c), because the MV 1 and MV 11 title and registration forms do not need to be completed for realty transactions, which are over 50% of the sales, and title fees are not assessed.

Department's response to No. 4: The requested language has been added to this section.

5. In Adm 67.07(7), recommend deleting the word "books" and making the word "record" plural.

Department's response to No. 5: The language has been amended as requested.

Comments regarding Adm 68

The Association reviewed the fees and it appears there is a segregation of programs but they are co-mingled. It appears there is some evidence that the dealer program has a smaller pool of revenues. The Association would like the Department to justify the large increase.

The Association objects to the large increase in salesperson fees from \$8 to \$50. The Association used Steenberg Homes as an example of a dealership with a large number of salespeople who would be impacted more. They also used the example of modular housing which doesn't have licensing fees for salespersons. The Association stated that if there is a large increase in the registration and plates, it would impact everyone equally, not just larger businesses with a higher number of salespeople. The Association also stated that the increase in branch and sublots is acceptable because it is outside of the regular scope of licensing.

The Association requests the Department to review the current amounts and bring them in line with normal increases. Most groups use the Consumer Price Index or other indexes for references.

The Association observed that the Department's mobile home programs combined have \$100,000 in revenue and as a whole, they are running at a surplus. The industry just saw an increase in park fees and they feel many are getting socked. They request further justification for increases.

The Association is looking for evidence that general program revenue monies were used to supplement the mobile home programs and request

documentation to that effect. If such documentation exists, they would support the licensing function.

Department's response. The Mobile Home Program has been running a deficit since the program was transferred from the Department of Transportation. General purpose revenues have been supplementing the program and staffing has been reduced to ensure continued operation. Attached is a memo dated April 4, 1997, from Bev Tucker to John Eldredge, which provides a summary of the Mobile Home Program revenue and expenditure history.

In response to the concerns raised, the department revised the proposed fee schedule to reflect a higher increase in the dealer registration fee (original amendment was \$200, now \$230) and dropped the salesperson fees (original amendment was \$50, now \$26). These changes will result in a decrease in revenues of \$1,422 from the original amendment request. The fee increase will affect dealers across the board.

Summary of Written Comments
on Adm 66, 67 and 68
and Department's Response

1. Change the term "mobile home" to "manufactured home."

Department's Response to No. 1: "Mobile home" is the term used and defined by the Legislature in s. 218.10, Wis. Stats. However, for clarification, the rules include a definition for "manufactured home." See sections Adm 66.02(7), 67.02(6) and Adm 68.02(6).

2. The 3 day cooling off period should only apply to manufactured homes sold away from the dealership.

Department's Response to No. 2: The language relating to the cooling off period has been moved to Adm 67.07(5), in order to clarify that it applies only to sales away from the dealership, such as expos and trade shows.

3. Object to the proposed hike in license and registration fees.

Department's response to No. 3: The Mobile Home Program has been running a deficit since the program was transferred from the Department of Transportation. General purpose revenues have been supplementing the program and staffing has been reduced to ensure continued operation. Attached is a memo dated April 4, 1997, from Bev Tucker to John Eldredge, which provides a summary of the Mobile Home Program revenue and expenditure history.

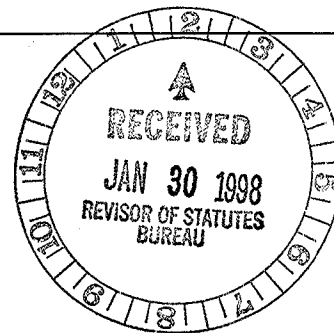
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STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY



Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864



January 30, 1998

Mr. Gary Poulson
Revisor of Statutes
131 W. Wilson Street, Suite 800
Madison, WI 53703

Douglas LaFollette
Secretary of State
30 W. Mifflin St., 10th Fl.
Madison, WI 53703

TRANSMITTAL OF RULE ADOPTION - ADM 68

RE: Licensing Periods and Fees for Manufactured Home Dealers and Salespersons

Dear Messrs. Poulson and LaFollette:

Pursuant to s. 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the Officers of the Secretary of State and the Revisor of Statutes.

Enclosed, please find a rule certificate form, the order of adoption and rule in final draft form, as well as the fiscal estimate and final regulatory flexibility analysis.

Respectfully Submitted,


Mark D. Bugher
Secretary