

**13:21-15.2 Application**

(a) An application for a dealer license required to be obtained under the provisions of N.J.S.A. 39:10-19 shall be verified by an oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants.

(b) An initial applicant, if a natural person, shall undergo a criminal background check by submitting his or her fingerprints in the manner prescribed in the application.

1. An applicant for renewal who first received a license pursuant to this subchapter prior to June 1, 2002 shall submit his or her fingerprints in the manner prescribed in the application with the first renewal application submitted after March 6, 2006.

(c) The initial applicant, if a business entity other than a natural person, shall undergo a criminal background check by submitting the fingerprints in the manner prescribed in the application of each officer, director, controlling person or partner.

1. An applicant for renewal, if a business entity that first received a license pursuant to this subchapter prior to June 1, 2002 other than a natural person, shall submit the fingerprints of each officer, director, or controlling person or partner in the manner prescribed in the application with the first renewal application submitted after March 6, 2006.

(d) The applicant for an initial license, or at least one officer, director, or controlling person, if the applicant is other than a natural person, shall attend a prelicensure interview as scheduled by the Motor Vehicle Commission, at which time the applicant will be examined as to his knowledge of the lawful conduct of the business of buying, selling or dealing in motor vehicles in New Jersey; in the event that the applicant cannot demonstrate adequate knowledge thereof, the Commission may require the applicant to attend a training program.

(e) At the time of initial application, the applicant shall submit a copy of the Federal notice of his or her tax identification number and his or her New Jersey sales tax certificate of authority.

(f) At the time of initial application, the applicant shall submit a list of all proposed authorized signatories to be listed on the license application and the licensee shall notify the Commission within 10 days of any change in that list on forms prescribed by the Commission; every application shall include an affidavit by each authorized signatory that he or she has not been convicted of a crime arising out of fraud or misrepresentation nor previously held a license issued by the Director or the MVC which license was revoked and not reissued.

(g) All applicants shall disclose whether or not they intend to trade or to do business under a name other than the name in which the application is filed. Subsequent to licensing, a

dealer shall be required to report to the Commission any additional business name or changes in existing names under which the dealer intends to do business.

(h) Photographs and/or plans that clearly depict the complete premises, including proposed signage, from which premises a dealer intends to do business shall be submitted with the initial application for a dealer license along with proof that the premises comply with all zoning, planning, use and environmental laws, rules and ordinances and that all activities permitted by the license will be permitted therein. In no event will an application for a license be approved until the premises are suitable for use as a dealership at the time of the initial compliance inspection by the Commission.

(i) The applicant shall submit a true copy of the deed to the premises in the name of the applicant or, if the applicant does not own the premises, a contract for purchase of the premises enforceable by the applicant or a lease or an enforceable contract to lease the premises for a term of at least one year in favor of the applicant.

(j) Unless the business hours of the applicant will be no fewer than 48 hours per week between the hours of 9:00 A.M. and 5:00 P.M. Monday through Saturday, the applicant shall submit with his or her initial application a schedule of business hours, of which no fewer than 20 hours per week shall occur between the hours of 9:00 A.M. and 5:00 P.M. Monday through Saturday.

(k) The applicant shall submit current color passport-type photographs of the applicant, if an individual, or of all partners, members, officers, directors or shareholders with controlling interests, if a partnership, limited liability company or corporation, respectively.

(l) At some time during the application process prior to licensure, the applicant shall submit a certificate of insurance demonstrating liability insurance covering all vehicles owned or operated by the dealer, at his request or with his consent. This insurance shall be in the amount of \$100,000 per person per incident up to \$250,000 per incident for bodily injury or death, \$25,000 per incident for property damage and \$250,000 combined personal injury and property damage per incident. This insurance shall be renewed as necessary to ensure that it remains valid for the entire prospective license term.

(m) Misrepresentation of any facts or failure to fulfill any of the commitments made in the license application including, but not limited to, commitments concerning the establishment of a place of business, shall be grounds for denial, suspension or revocation of the license.

Recodified from N.J.A.C. 13:21-15.1 and amended by R.2006 d.98, effective March 6, 2006.

See: 37 N.J.R. 1002(a), 38 N.J.R. 1324(a).

Section heading was "General provisions"; rewrote the section; former N.J.A.C. 13:21-15.2, Proper person, recodified as N.J.A.C. 13:21-15.3.

Amended by R.2007 d.228, effective August 6, 2007.

See: 39 N.J.R. 354(a), 39 N.J.R. 3390(a).

In (a), substituted "An application" for "Applications" and "Commission" for "Director"; in (g), inserted "or not" and "to" preceding "do" in the first sentence, and substituted "Commission" for "Division of Motor Vehicles"; in (h), substituted "license" for "licensee" preceding "will", and inserted "the" following "until"; and in (i), substituted "At some time during the application process prior to licensure, the" for "The" and deleted a comma following the first occurrence of "damage" in the last sentence.

### 13:21-15.3 Proper person

(a) In order to be considered a proper person, an applicant must:

1. Be at least 18 years of age and have legal capacity to contract, to be sued and to be liable for all debts;
2. Be of sufficient good character, in the Chief Administrator's discretion to warrant consideration as a proper person to be licensed as a dealer. To assist the Chief Administrator in making this determination, he may consider an applicant's financial responsibility, as well as whether or not the applicant has been involved in any illegal activities prior to his applying for a license;
3. Not have been convicted of a crime arising out of fraud or misrepresentation;
4. The Motor Vehicle Commission will request the New Jersey Division of State Police to place a State Bureau of Investigation Number flag pursuant to N.J.A.C. 13:59 on the fingerprint record of each person required to undergo a criminal background check pursuant to N.J.A.C. 13:21-15.2.

Recodified from N.J.A.C. 13:21-15.2 and amended by R.2006 d.98, effective March 6, 2006.

See: 37 N.J.R. 1002(a), 38 N.J.R. 1324(a).

Deleted "..." from introductory paragraph (a); deleted "in the sale or financing of a motor vehicle" from (a)3; rewrote (a)4; former N.J.A.C. 13:21-15.3, Established place of business, recodified as N.J.A.C. 13:21-15.4.

Amended by R.2007 d.228, effective August 6, 2007.

See: 39 N.J.R. 354(a), 39 N.J.R. 3390(a).

In the introductory paragraph of (a), inserted a colon at the end; and in (a)2, substituted "Chief Administrator's" for "Director's" and "Chief Administrator" for "Director", and inserted a comma following "responsibility".

#### Case Notes

Suspension of dealer's license ordered due to misrepresentation of prior criminal conviction on renewal application; license not revoked due to nature of offense and licensee's conduct of business. In Re: Allen Rosenberg, 4 N.J.A.R. 208 (1981).

Denial of motor vehicle dealer license reversed upon finding of good moral character despite aberrant narcotics conviction. *Leston v. Div. of Motor Vehicles*, 3 N.J.A.R. 111 (1981).

### 13:21-15.4 Established place of business

(a) All licensees shall maintain a permanent, properly identified location with a minimum office space of 72 square feet within a permanent, enclosed building and where there are included or immediately contiguous, clearly identified, fixed facilities to display at least two automobiles and at

which place of business shall be kept and maintained the books, records and files necessary to conduct the business, including, but not limited to, all documents required by N.J.S.A. 39:10-6, all payroll records, checkbooks and ledgers for business accounts and trust accounts, all unissued temporary registrations, dealer reassignments, corporate authorities and licenses, dealer plates, and ledgers listing all issued and unissued temporary registrations, dealer assignments and dealer plates.

1. Failure to comply with all requirements of this section at a follow-up compliance inspection (to be held any time after 90 days after licensing) will result in revocation of the license.

2. A dealer licensed prior to March 6, 2006 may continue to maintain a place of business that does not meet the square footage and display space requirements of this subsection, as amended; provided, that the premises meets and continues to meet the requirements of this section prior to March 6, 2006.

(b) The established place of business shall display an exterior sign permanently affixed to the land or building, which sign is consistent with local ordinances and which has letters easily readable from the major avenues of traffic. Said sign must reflect the dealer name or trade name, providing such trade name has been previously disclosed to the Commission.

(c) The licensee or an authorized signatory shall be present at the dealership at all times during the business hours set forth in the application for licensure, which schedule shall be conspicuously posted along with the dealer's license on the dealer's premises in an area readily accessible to the public.

1. If the licensee was not required to submit a schedule of business hours pursuant to N.J.A.C. 13:21-15.2(j), no schedule need be posted.

(d) A proposed place of business will not be considered suitable for approval if there already exist one or more licenses issued for, or other business entities present at, the same premises, except where there is absolutely common identity of ownership or where an affiliated motor vehicle leasing company is also licensed as a motor vehicle dealer and in such cases a record of the transactions of each licensed dealer shall be separately maintained; a proposed place of business is deemed to occupy the same premises as another dealership if the two facilities are not completely separated by exterior walls or a firewall conforming to National Building Code requirements, they do not have separate entrances, or they do not have separate, fixed, clearly identified display facilities, separate mailboxes, and separate, fixed-location (that is, not mobile or cellular) telephone systems.

(e) Any licensed dealer who intends to change his or her business location or to open a branch operation must notify the Dealer Licensing Section of the Commission in writing at least 30 days prior to doing so.