

REQUEST FOR TECHNICAL CHANGE

AGENCY: NCDOT Division of Motor Vehicles

RULE CITATION: 19A NCAC 03D .0219

DEADLINE FOR RECEIPT: Monday, April 9, 2018

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Line 7 – replace “any disclosure” with “all disclosures” if that is what is meant

Line 13 – delete the “and” before “vehicle”

Line 17 – delete the comma after “date”

Line 24 – add “the” after “of”

Line 29 – replace “recording” with “record” or “document” if that is what is meant.

Line 30 – what does “intended to have the same effect by a person executing or issuing it” mean? Is this phrase necessary?

Line 31 – delete “itself”

Line 35 – replace “person(s)” with either “person” or “persons”

Page 2, lines 1-5 – consider revising as follows:

records shall be made available for inspection in a readable format and identified by title. Record requests shall be responded to as follows:

- (a) Records to be inspected by the Division in accordance with G.S. 20-297(b), audits per G.S. 20-285, or investigations of illegal activity shall be provided immediately upon request.
- (b) All other requests for records shall be filled within the same business day.

Page 2, line 6 – replace “person(s)” with either “person” or “persons”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, March 23, 2018

1 19A NCAC 03D .0219 is adopted with changes as published in 31:17 NCR 1754 as follows:

2
3 **19A NCAC 03D .0219 BUSINESS RECORDS**
4

5 (a) All motor vehicle dealers, manufacturers, factory branches, distributors, distributor ~~branches~~ branches, and
6 wholesalers shall keep a record for ~~at least~~ four years of all vehicles manufactured, received, sold, ~~traded~~ traded, or
7 junked. In ~~addition~~ addition, a copy of any disclosure required by G.S. 20-71.4 received or given by the dealer ~~must~~
8 shall be retained for four years. An odometer disclosure form shall be retained for a period of five years as required
9 by G.S. 20-347.1.

10 (b) All motor vehicle dealers, manufacturers, factory branches, distributors, distributor ~~branches~~ branches, and
11 wholesalers shall keep for a period of four years the following additional records for each ~~vehicle~~ vehicle, and
12 ~~mobile/modular~~ mobile home, or modular home manufactured, received, sold, ~~traded~~ traded, or junked:

- 13 (1) ~~Make~~ the make, body style, and vehicle identification number, and year ~~model~~. model;
- 14 (2) ~~Name~~ the name of the person, firm firm, or corporation from whom ~~acquired~~. acquired;
- 15 (3) ~~Date~~ the date the vehicle was purchased or manufactured. manufactured;
- 16 (4) ~~Name~~ the name of person, firm firm, or corporation to whom the vehicle was sold or traded. If the
17 vehicle was junked, the date, and the name and address of the person, firm firm, or corporation to
18 whom the frame, ~~motor~~ the motor, and the body ~~sold~~. were sold;
- 19 (5) ~~Date~~ the date the vehicle was sold or traded. traded;
- 20 (6) ~~Copy of bill of sale (written statement)~~. the copy of the written bill of sale; and
- 21 (7) ~~The~~ the North Carolina oversize single trip or annual permit number issued pursuant to G.S. 20-119
22 that authorizes ~~authorizing~~ movement of the ~~mobile/modular unit~~, mobile home or modular home,
23 serial number or vehicle identification number of the ~~mobile/modular unit~~, mobile home or modular
24 home, the date of move, transporter, and name and address of purchaser.

25 (c) All records required to be maintained in Paragraphs (a) and (b) shall be kept and maintained for every vehicle
26 purchased or sold and shall be ~~kept so as to be readily~~ available for inspection upon [demand] request from an
27 authorized agent of the North Carolina Division of Motor Vehicles. ~~Vehicles in order that the ownership of any vehicle~~
28 ~~purchased or sold can be traced~~. All records required to be maintained shall be either original or electronic records.

29 (d) For the purpose of this Rule, an "original record" is the writing or recording itself or any non-electronic duplicate
30 intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the
31 negative or any print therefrom. An "original record" may itself be in electronic format.

32 (e) For the purpose of this Rule, an "electronic record" is a duplicate produced by electronic re-recording or by
33 equivalent techniques, such as imaging or image processing, that reproduce the original record. If only an electronic
34 record is [records are] maintained, the following requirements shall be met:

- 35 (1) Upon [demand] request by the Division, the person(s) in possession of the [demanded] requested
36 electronic records may produce the records in either reproduced paper or electronic copies. All

records shall be made available for inspection in a readable format and identified by title. Record request types described as:

(a) immediate requests are records inspections performed by the Division in accordance with G.S. 20-297(b), audits per G.S. 20-285 or investigations of illegal activity.

(b) all other requests for records may be filled within the same business day.

(2) Any person(s) producing electronic records to the Division shall verify that the records being produced to the Division consist of all information contained in the original records.

~~(d) Manufacturer's Certificates of Origin and title for all vehicles owned by a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler must be immediately available to assign to the purchaser.~~

~~(e) Retail installment sales must be made in accordance with G.S. 20-303. Cash sales may be made by proper endorsement and delivery of the title to the purchaser and any other receipt that the purchaser and seller agree upon.~~

~~(f) Pursuant to 16 CFR 455.2 a dealer shall not willfully remove the "Monroney Label" or sticker from a new automobile that is displayed for sale. The "Monroney Label" must be affixed to the new automobile at the time of sale to the ultimate purchaser. "Ultimate Purchaser" means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a new automobile for purposes other than a resale.~~

~~(g) Pursuant to 15 USC Sec. 1231 every dealer offering used cars for sale shall post buyers guides with warranty information as required by the Federal Trade Commission and same shall be displayed at the time of sale.~~

History Note: Authority G.S. 20-1; 20-52; 20-71.4; 20-75; 20-79(a) and (b); 20-82; 20-286(6) and (15); 20-297; 20-302; 20-303; 20-347;

Eff. June 1, 1988;

Amended Eff. January 1, 1994; October 1, 1991; October 1, 1989;

Filed as a Temporary Rule Eff. October 1, 2000;

Amended Eff. May 1, 2018; August 1, ~~2002~~; 2002.

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AGENCY: NCDOT Division of Motor Vehicles

RULE CITATION: 19A NCAC 03D .0237

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In reviewing this Rule, the staff recommends that the following technical changes be made:

Line 13 – delete “in good faith”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason Thomas
Commission Counsel
Date submitted to agency: Friday, March 23, 2018

1 19A NCAC 03D .0237 is adopted with changes as published in 31:17 NCR 1754 as follows:
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3 **19A NCAC 03D .0237 VEHICLE RECORDS AND REQUIRED DISCLOSURES**
4

5 (a) Manufacturer's Certificates of Origin and title for all vehicles owned by a motor vehicle dealer, manufacturer,
6 factory branch, distributor, distributor branch, or wholesaler shall be available to assign to the purchaser ~~at the time of~~
7 ~~purchase.~~ consistent with the provisions of G.S. 20-72 and other applicable laws.

8 (b) Retail installment sales shall be made in accordance with G.S. 20-303. Cash sales may be made by proper
9 endorsement and delivery of the title to the purchaser and any other receipt that the purchaser and seller agree upon.

10 (c) A dealer shall not willfully remove any label or sticker required by 15 USC § 1232 from a new automobile that is
11 displayed for sale. Any label or sticker required by 15 USC § 1232 shall be affixed to the new automobile at the time
12 of sale to the ultimate purchaser. "Ultimate Purchaser" means, with respect to any new automobile, the first person,
13 other than a dealer purchasing in his or her capacity as a dealer, who in good faith purchases such new automobile for
14 purposes other than resale.

15 (d) Every dealer offering used vehicles for sale shall post a "Buyers Guide" that complies with 16 CFR 455.2 on all
16 used vehicles offered for sale and shall display the same on the vehicle at the time of sale.

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18 *History Note:* *Authority G.S. 20-39; 20-79.1;*

19 *Eff. May 1, 2018*
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