Booth, Bradford (DMV)

From: Shaun Petersen <shaun@niada.com>
Sent: Wednesday, December 4, 2019 9:50 PM
To: Booth, Bradford (DMV)
Subject: [EXTERNAL] : Proposed Amendment to document fee rule; Proposed Amendment to document fee rule
Attachments: RI used car dealer comments.pdf; ATT00001.htm; state doc fee chart.pdf; ATT00002.htm

Dear Mr. Booth,

On behalf of our member dealers in Rhode Island, please find comments of National Independent Automobile Dealers Association and Massachusetts/New England Independent Automobile Dealers Association.

Shaun K. Petersen | Senior Vice President, Legal & Government Affairs
National Independent Automobile Dealers Association
2521 Brown Blvd. | Arlington, TX | 76006
817.640.3838 phone | 682.558.8281 fax

NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

Massachusetts Independent Automobile Dealers Association
MIADA
THE ROAD TO A PROFESSIONAL

December 4, 2019

Sent via email to bradford.booth@dmv.ri.gov

Bradford Booth
Department of Revenue
600 New London Avenue
Cranston, RI 02920

Re: Proposed Amendment to document fee rule
Rule Identifier Rule: 280-RICR-30-20-1

Dear Mr. Booth,

The National Independent Automobile Dealers Association ("NIADA") working with our regional affiliate, the Massachusetts/New England Independent Automobile Dealers Association ("MIADA") on behalf of the hundreds of licensed independent used car dealers in Rhode Island, submits these comments to the Department of Motor Vehicles ("DMV") regarding the DMV's proposed amendment to 280-RICR-30-20-1.6(N). The proposed amendment would increase the documentary fee cap from $200 to $400 and increase the threshold for transactions where the documentary preparation fee may be charged from $7,500 to $10,000.

NIADA and MIADA appreciates the DMV considering this proposed rule change. We welcome the opportunity to be a part of the DMV's review process through these comments. We also look forward to working with the DMV in consideration of future proposals that will strengthen the used motor vehicle industry in Rhode Island for the benefit of consumers, dealers and the state.

Our member dealers in Rhode Island support the DMV's increase of the documentary preparation fee cap to $400 but respectfully request the DMV remove any minimum purchase price threshold before the fee can be charged.

I. Association Background

NIADA is the national trade association representing the interests of the used motor vehicle industry comprised of more than 38,000 licensed used car dealers. NIADA's members – totaling more than 15,000 – include independent automobile dealers unaffiliated with any franchise that sell used vehicles wholesale, retail, and buy here pay here ("BHPH").

Since 1946, NIADA has been the voice of independent, used car dealers in Washington, D.C. Coupled with its state association network across the country, including MIADA in the New England states, NIADA's grass-roots framework provides a dual layer of advocacy unmatched in the used motor vehicle industry.

For 73 years, NIADA has engineered programs and leveraged technology to fulfill its mission to advance, educate, and promote the independent, used car dealer. NIADA stands tall for its members who subscribe to a strict Code of Ethics of duty, honor and integrity and who believe in the advancement of small business in support of the free-market system.

NIADA members embody the spirit of American entrepreneurism, and as a result NIADA is dedicated to ensuring the success of small businesses. More than 40 percent of NIADA's dealer members have been in business for more than 20 years, and almost 50 percent have five or fewer employees. The overwhelming majority of NIADA dealer members, including those in Rhode Island are, by every criteria of the Small Business Administration, small businesses looking to survive.

II. The Retail Used Motor Vehicle Industry

Americans are purchasing used cars at greater than 2 to 1 rate compared to new vehicles. In 2018, Americans bought more than 39.1 million used cars[1] compared to 17.2 million new vehicles.[2] Retail used vehicle sales decreased slightly in 2018 from the more than 41.3 million sold in 2017.[3]

When buying a used car, Americans primarily look to one of three sources: independent, used car dealers; new car dealers; and private parties. Of the 39.1 million retail used car sales last year, nearly 13.9 million were sold by licensed, independent, used car dealers.[4] In 2017, those same dealers sold nearly 13.7 million.[5]

Consumers look to purchase used cars more frequently in part because the average life cycle of a vehicle continues to increase. According to the Department of Transportation statistics, at the conclusion of 2016, the average age of automobiles and trucks in operation in the United States was 11.6 years.[6] But, as much as life cycle is an important consideration,

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[1] National Automobile Dealers Association.
[2] WardsAuto.
[3] National Automobile Dealers Association.
[4] National Automobile Dealers Association. New car dealers sold 14.4 million and private party sales accounted for 10.8 million.
[5] National Automobile Dealers Association.
[6] https://www.bts.gov/content/average-age-automobiles-and-trucks-operation-united-states.

price of a used vehicle compared to new vehicles is often a determining factor. Through the first half of 2019, the average price of a new car was more than $36,000.[7] Conversely, the average retail selling price of used vehicle by new car dealers is nearly $21,000.[8] *It is important to note that this only accounts for the used vehicles sold by new car dealers.*

Because used vehicles vary greatly in age, condition, and mileage, so too do used vehicle prices. The average price of used vehicles sold by new car dealers does not reflect the average price of used cars sold by independent, used car dealers. Based on data gathered by NIADA, 75% of independent, used car dealers have an average retail price less than $10,000.[9] On the other hand, only 1% of those dealers have an average retail price of more than $20,000.[10]

III. Document Preparation Fee

Document fees (sometimes called administrative fees) are commonly charged in motor vehicle transactions across the country. These fees address costs incurred by the dealership that are separate than those paid to acquire the vehicle.[11] Consider the wide ranging consumer protection, safety and compliance costs associated with a motor vehicle transaction:

- Checking vehicle history and safety related information
- Checking for any title related brands
- Discovering and disclosing accurate mileage
- Checking for any open recalls
- Completing all necessary forms and contracts needed to consummate the transaction and protect consumer interests
- Processing titles and plates
- Filing and clearing liens
- Keeping consumers informed of rights and obligations
- Maintaining records of the transaction
- Safeguarding consumers' nonpublic, personal information
- Purchasing required forms and supplies
- Maintaining necessary technology to process and protect necessary documents
- Training staff to carry out these various tasks and ensure compliance with the law

Although this list is long, it is non-exhaustive. All of these costs are incurred before a dealer puts a single car on the lot for sale. And all of these costs are separate from any cost associated with the vehicle itself. As they have analyzed the sum total of all of these costs and averaged them out on a per vehicle basis, our Rhode Island dealers have indicated the average easily meets and exceeds $400 per vehicle.

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[7] NADA Data 2019: Midyear Report.
[8] Id.
[9] NIADA Used Car Industry Report 2018, pg. 6.
[10] Id.
[11] See, https://cdn2.hubspot.net/hubfs/4829685/NHADA.com/docs/Admin%20Fees%20Brochure.pdf for brochure published in New Hampshire explaining costs associated with administrative (doc) fee.

Because the nature of the document fee is to address costs incurred with consumer protection, safety, and compliance costs including required paperwork, the ultimate price of the vehicle should not be a consideration in whether a document fee can be assessed. The costs of paperwork are the same regardless of the price of the vehicle. The costs of compliance are the same regardless of the price of the vehicle. And, all of the other costs that make up a document fee are the same regardless of the price of the vehicle. Those costs should be universally spread across all transactions.

Of the 18 states[12] that regulate the amount dealers can charge for a document fee, other than Rhode Island, only two – Ohio and Michigan – have roughly tied the amount to the purchase price of the car. The overwhelming majority of states do not regulate the amount of the document fee. If they do, they simply cap it at a certain amount that can be charged in all transactions. Why? Because the purpose for which the document fee is charged does not change based on the price of the car and thus they permit identical fees to be charged on all transactions.

IV. The Proposed Amendment

Our Rhode Island dealer members fully support the DMV's review of this rule. Specifically, they support the DMV's proposed increase of the doc fee from $200 to $400. We appreciate the DMV's stated desire to bring the doc fee in line with the median doc fee in Massachusetts.[13] We believe this adjustment is necessary to avoid placing Rhode Island dealers at a disadvantage with dealers in neighboring states.

While our Rhode Island dealer members support the DMV's proposed increase to $400, they are opposed to the increase of the applicability threshold to $10,000. In fact, they are concerned with any threshold at all and ask DMV to remove it entirely. As stated above, because the nature of the document fee is to address costs incurred with consumer protection, safety and compliance costs, the ultimate price of the vehicle should not be a consideration in whether a document fee can be assessed. Those costs exist and are the same for every customer regardless of the purchase price of the car be it $35,000 or $8,000 or $4,000.

V. Conclusion

On behalf of our Rhode Island dealer members, we thank the DMV for its open and public process in considering this amendment. While our Rhode Island members fully support the DMV's proposal to increase the document fee amount, they respectfully request the DMV eliminate the $10,000 applicability threshold. We are happy to engage in further conversations with the DMV about our comments and this particular request.

Additionally, we would like to offer our associations up as a resource to the DMV on any issue impacting the used motor vehicle industry or to which the DMV believes we can be of assistance. We look forward to fostering a relationship with the DMV that will benefit all

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[12] See attached excel spreadsheet of applicable legal citations to document fee regulations in all 50 states.

[13] Cost-Benefit Analysis, Dealers, Manufacturers, and Rental Licenses (280-RICR-30-20-1), Rhode Island Division of Motor Vehicles, October 2019, pg. 1.

parties involved in the used motor vehicle industry: consumers, dealers, and the state. We hope you will utilize us as one of those resources.

Sincerely,



Shaun K. Petersen
NIADA
Senior Vice President



Phil Greenstein
MIADA
Chairman of the Board



Tony Petrone
MIADA
Board of Directors and Vice-President and Co-Owner, International Motor Group, Warwick, RI

State	Doc Fee	Legal Citation
Alabama	No limit	
Alaska	no limit; must be incl. in vehicle price	Alaska Stat. § 45.25.440
Arizona	No limit	
Arkansas	$129 cap	Arkansas Motor Vehicle Commission Rule 8(B)
California	$70 cap, unless a DMV Business Partner to do electronic titling, or signed up with a 3rd party to do electronic titling then $85 cap	Cal Veh Code § 4456.5
Colorado	No limit	
Connecticut	No limit	
Delaware	$8.00 on purchase price below $400; $13.75 on purchase price of $400-$500; $4.25 for every $100 increase of purchase price above $500; ***doc fee is remitted to state - not kept by dealer***	30 Del. C. § 3002
Florida	No limit	
Georgia	No limit	
Hawaii	No limit	
Idaho	No limit	
Illinois	$179.81 (changes annually)	815 ILCS 375/11.1
Indiana	$200 cap	Burns Ind. Code Ann. § 9-32-13-7
Iowa	$180 cap	Iowa Code 322.19A
Kansas	No limit	
Kentucky	No limit	
Louisiana	$200 cap	La. R.S. § 6:969.18
Maine	No limit	
Maryland	$300 cap	Md. TRANSPORTATION Code Ann. Section 15-311.1
Massachusetts	No limit	
Michigan	$220 or 5% of sales price, whichever is lower	MCL 492.113(2)(a)
Minnesota	$100 cap	Minn. Stat. § 168.27
Mississippi	$425 cap	CMSR 30-013-1301 Rule 8.1
Missouri	$199 cap (anything $200 or over could be deemed unauthorized practice of law)	MO Rev Stat § 301.558.

Montana	No limit	
Nebraska	No limit	
Nevada	No limit	
New Hampshire	No limit	
New Jersey	No limit	
New Mexico	No limit	
New York	$75 cap	15 NYCRR § 77.8
North Carolina	No limit	
North Dakota	No limit	
Ohio	$250 or 10% of the sales contract price whichever is less	ORC Ann. 4517.261; ORC Ann. 1317.07
Oklahoma	No limit	
Oregon	$115 cap if dealer does not use integrator; $150 cap if dealer uses integrator	ORS § 822.043
Pennsylvania	$318 cap if processing title work manually; $141 if process electronically with an online provider	63 P.S. § 818.327; State Board notice
Rhode Island	$200 on vehicles with sales price over $7,500	280-RICR-30-20-1.6(N)
South Carolina	No limit	
South Dakota	No limit	
Tennessee	No limit	
Texas	$150 cap, anything above, dealer must notify the state	Texas Finance Code 348.006 (e) & (f)
Utah	No limit	
Vermont	No limit	
Virginia	No limit	
Washington	$150 cap, negotiable	Rev. Code Wash. (ARCW) § 46.70.180(2)
West Virginia	$175	WV Code 46A-3-109(a)(6); Memorandum of Commissoner 2-1-2011
Wisconsin	No limit	
Wyoming	No limit	

Booth, Bradford (DMV)

From: mike <mikejdauto@aol.com>
Sent: Thursday, December 5, 2019 8:49 AM
To: Booth, Bradford (DMV)
Subject: [EXTERNAL] :

Dear Mr. Booth,

My name is Mike Cavanaugh. I am the owner of J&D Auto Sales, Inc. in West Warwick.

We agree with comments submitted by the National and Massachusetts/New England Independent Automobile Dealers Associations supporting the proposed increase in the doc fee from $200 to $400 and opposing the increase in the minimum threshold to $10,000.

We look forward to the DMV working with our associations to resolve this concern.

Sincerely,

Mike Cavanaugh
President
J&D Auto Sales Inc
(401) 640-4186

Booth, Bradford (DMV)

From: greg enos <kingstonautofinance@yahoo.com>
Sent: Thursday, December 5, 2019 9:32 AM
To: Booth, Bradford (DMV)
Subject: [EXTERNAL] : Dealer Doc Fee

Dear Mr. Booth,

My name is Sina Nikkhah. I am the owner of Kingston Auto Sales. We employ close to a dozen people.

We agree with comments submitted by the National and Massachusetts/New England Independent Automobile Dealers Associations supporting the proposed increase in the doc fee from $200 to $400 and opposing the increase in the minimum threshold to $10,000.

We look forward to the DMV working with our associations to resolve this concern.

Abualisina Nikkhah, Owner

Kingston Auto Sales Inc.
1880 Kingstown Rd.
Peacedale, RI 02879

Phone: 401-789-2266
Fax: 401-284-3464

Booth, Bradford (DMV)

From: Solution Auto <solutionauto17@gmail.com>
Sent: Thursday, December 5, 2019 12:31 PM
To: Booth, Bradford (DMV)
Cc: Used Car Dealer Group
Subject: [EXTERNAL] : DOC FEE RULE CHANGE
Attachments: Doc Fee Rule Change.pdf

Good afternoon,

My name is Derlyn Lopez, I own Solution Auto Sales & Body in Providence.
Please see attach letter in regards to our dealerships opinion on the proposed rule change of Documents fees.

Auto Republic LLC
DBA Solution Auto Sales & Body LLC
17 Warren St.
Providence RI 02907
Phone 401-383-3827
www.SolutionAutoSales.com

December 5th, 2019

Division of Motor Vehicles
600 New London Avenue
Cranston RI 02920

To Whom It May Concern:

My Name is Derlyn Lopez. I am the owner of Solution Auto Sales & Body and we are a small used car dealership in Providence with a total of 9 employees. I write this letter to today to opposed the rule change proposed by the registry in regards to the amount of documentation fee allowed to be charged on the sale of a motor vehicles by licensed car dealers.

We agree with comments submitted by the National and Massachusetts/New England Independent Automobile Dealers Associations supporting the proposed increase in the doc fee from $200 to $400 and opposing the increase in the minimum threshold to $10,000.

Raising the minimum threshold to the $10,000 while requiring all regulations to be followed no matter the price of the vehicle be sold is illogical. The proposed threshold will not allow us to charge the fee on 80% of the vehicles we sell while having to incur the cost of business associated with 100% percent of our sales.

We are encourage by the fact that Rules and Regulations are been looked at and amended in the hopes to what I assume is to make rules fair and unbiased, unfortunately this changed while a move in the right direction (raising the fee form $199 to $400) takes to steps back and essential prevents most small used car dealers from been able to charge the fee if the minimum threshold of $10,000 is implemented.

Sincerely,

Derlyn Lopez
Owner of Solution Auto Sales & Body LLC

Booth, Bradford (DMV)

From: Gary Gosselin <ggosselin@shannonmotors.com>
Sent: Friday, December 6, 2019 8:52 PM
To: Booth, Bradford (DMV)
Cc: Gary Gosselin
Subject: [EXTERNAL] : Documentation Fee

Dear Mr. Booth,

My name is Gary Gosselin owner of Shannon Motors with locations in Johnston, Providence and Woonsocket. We presently employ 45 employees.

We agree with comments submitted by the National and Massachusetts/New England Independent Automobile Dealers Associations supporting the proposed increase in the doc fee from $200 to $400 and opposing the increase in the minimum threshold to $10,000.

We look forward to the DMV working with our associations to resolve this concern.

Sincerely,

Gary Gosselin

Gary Gosselin
Shannon Motors
Main 401.273.0110
GGosselin@ShannonMotors.com - www.ShannonMotors.com [shannonmotors.com]

We own the finance company, so approvals are EASY!

Shannon MOTORS [shannonmotors.com] [twitter.com] [youtube.com]

[facebook.com] [twellow.com]

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