

RULE 7

OFF-PREMISE SALES, DISPLAYS AND/OR EVENTS

(REQUEST FORMS ARE AVAILABLE AT THE COMMISSION OFFICE or WWW.ARMVC.COM)

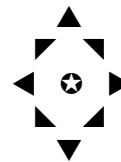
1. OFF-PREMISE SALES, DISPLAYS AND/OR EVENTS:

- A. Are strictly prohibited except as provided in this rule.
- B. Are permitted after prior written approval is obtained from the Arkansas Motor Vehicle Commission.
- C. May include used motor vehicles owned by new motor vehicle dealers.
- D. A dealer shall obtain an off-premise permit to offer, and/or sell motor vehicles away from the dealer's licensed place of business.
- E. Shall be considered a privilege and should not be abused.
- F. Sponsor(s) of an Off-Premise Sale, Display and/or a Manufacturer or Distributor event who violate any portion of this rule shall be subject to all remedies available pursuant to A.C.A. §23-112-101 et. seq. and the rules promulgated thereunder.

2. DEFINITIONS USED IN THIS RULE:

- A. "AMVC" means the Arkansas Motor Vehicle Commission.
- B. "Contiguous" means counties bordering or sharing a common border with the host county.

Example of Contiguous:



Key ~ ★ Host County
 ▲ Contiguous Counties

- C. "Dealer" means a new motor vehicle dealer licensed by the Arkansas Motor Vehicle Commission.
- D. "Display" means vehicles are present. Dealer personnel, sales and solicitations are prohibited.
- E. "Event" means a show to display vehicles for the general public to review and inspect a manufacturer's or distributor's new motor vehicles.
- F. "Host County" means the county in which the Off-Premise Sale is conducted.

- G. “Off-Premise Sale” means a motor vehicle show in which personnel are present and sales are permitted.
- H. “Line-make” is a particular make of vehicles for which a franchise or contract is held and offered for sale. Examples: Chevrolet, Harley Davidson, Honda ATV or Fleetwood.
- I. “Local dealer” means a new motor vehicle dealer whose established place of business at which he is licensed by the Arkansas Motor Vehicle Commission is physically located in the host county.
- J. “Model Line” is a particular model of vehicle within a “Line-make.” Examples: Fleetwood is the Line-make and Model lines are Pace Arrow, Pace Vision, and Southwind. Chevrolet is the Line-make and Model lines are Silverado, Corvette and Suburban.
- L. “Reciprocity agreement” is an agreement between the State of Arkansas and another state allowing out-of-state dealers to participate in off-premise sales in Arkansas and allowing Arkansas dealers to participate in off-premise sales in that state.
- M. “Sponsor” means the entity conducting the Off-Premise Sale, such as promoter, private business, trade association or dealer association to promote member products or a manufacturer or distributor.
- N. “Sufficient representation” means a sufficient number of dealers selling all line-makes and manufacturers, whether or not those dealers participate in the Off-Premise Sale.
- O. “Temporary Permit” is a permit or license issued by the Arkansas Motor Vehicle Commission allowing an out-of-state dealer to participate in an approved Off-Premise Sale for a period not to exceed seven (7) consecutive days.
- P. “Qualified dealer” means a new motor vehicle dealer from a contiguous county who has both a franchise agreement or other contract from a manufacturer or distributor and a license or temporary permit from the Arkansas Motor Vehicle Commission to sell any product line-makes in, the host county that he makes available for sale at an Off-Premise Sale.
- Q. “Public Venue” means when used in conjunction with “Off-Premises Sale” or “Off-Premises Display” a location which is open to the general public whether or not an admission fee is charged and which is not a new motor vehicle dealership licensed by the AMVC or a used motor vehicle lot licensed by the Arkansas State Police.
- R. “Dealer Organization” or “Association” means a state or local trade association, the membership of which is comprised predominantly of motor vehicle dealers.
- S. “Manufacturer or Distributor Event” means an event conducted by a Manufacturer or Distributor at a public venue, for the purpose of attracting potential Dealers and/or Consumers to its product line.

- T. “Qualified Manufacturer or Distributor” means a Manufacturer or Distributor licensed by the Commission for the product line they wish to promote.

3. OBTAINING APPROVAL TO CONDUCT OFF-PREMISE SALES:

- A. In order to obtain approval to sponsor an off-premise sale for new motor vehicle dealers, a sponsor must:

- (1) Invite all local new motor vehicle dealers to participate in the Off-Premise Sale.
- (2) Submit the request to conduct an Off-Premise Sale for approval to the Arkansas Motor Vehicle Commission on the form provided by the AMVC office at least forty-five(45) days prior to opening day of the Off-Premise Sale. The forty-five (45) day requirement may be waived by the Executive Director for good cause shown. Attached to the request form shall be:
 - (a) A list of all dealers to whom invitations have been extended, with the address, telephone and the name of the contact person.
 - (b) A list of all line-makes to be offered at the Off-Premise Sale.
 - (c) A statement signed by the Sponsor assuring that adequate space will be made available for all invited dealers.
 - (d) A sample notice, invitation or registration form.
 - (e) Two (2) tickets to the off-premise sale, if there is an admission fee.
 - (f) If approval is obtained a copy of the approved form from the Commission must be forwarded to each participant.

- B. In order to obtain approval to sponsor an off-premise sale for used motor vehicles of new motor vehicle dealers or AMVC licensed branches, a sponsor must:

- (1) Invite all local new motor vehicle dealers or their AMVC licensed branches to participate in the Off-Premise Sale.
- (2) Submit the request to conduct an Off-Premise Sale for approval to the Arkansas Motor Vehicle Commission on the form provided by the AMVC office at least forty-five (45) days prior to opening day of the Off-Premise Sale. The forty-five (45) day requirement may be waived by the Executive Director for good cause shown. Attached to the request form shall be:
 - (a) A list of all new motor vehicle dealers and/or their AMVC licensed branches to whom invitations have been extended, with the address, telephone and the name of the contact person.
 - (b) A statement signed by the Sponsor assuring that adequate space will be made available for all invited new motor vehicle dealers and/or the AMVC licensed branches.
 - (c) A sample notice, invitation or registration form.
 - (d) Two (2) tickets to the off-premise sale, if there is an admission fee.

(f) If approval is obtained a copy of the approved form from the Commission must be forwarded to each participant.

(3) Each off-premise sale of used motor vehicles conducted by a new motor vehicle dealer or an AMVC licensed branch, must be advertised under that specific new motor vehicle dealer's corporate name, the dba name reflected on the AMVC license or the AMVC licensed branch name reflected on the AMVC license, and all documents utilized in the sale of a used motor vehicle must be recognizable to the prospective purchaser as to specific dealer origin.

4. CONDUCTING OFF-PREMISE SALES, DISPLAYS AND/OR EVENTS:

- A. The Sponsor must conduct the off-premise sale of new and/or used motor vehicles in compliance with the Arkansas Motor Vehicle Commission ACT, the Rules of the Arkansas Motor Vehicle Commission and all other applicable laws of the State of Arkansas.
- B. Off-Premise Sales may not be conducted for more than seven (7) days.
- C. A dealer may not utilize Franchised Logo's of a product line for which the dealer is not licensed by the Arkansas Motor Vehicle Commission.
- D. Franchised logos or trademarks shall not be used at Off-Premise Sales that are confined to used vehicles.

5. PARTICIPATION BY QUALIFIED DEALERS:

- A. Qualified dealers may be invited to participate in an Off-Premise Sale provided that:
 - (1) The sponsor obtains written approval from the Executive Director,
 - (2) A reciprocity agreement has been executed between the State of Arkansas and the state in which the contiguous county is located and such agreement is on file in the Arkansas Motor Vehicle Commission office, and
 - (3) The specific industry guidelines in Section 6 of this rule are followed.
- B. Any qualified out-of-state dealer shall submit an application provided by the Commission office, meet all requirements of Rule 7, Section 2, Paragraph M, pay a fee of fifty dollars (\$50.00) and obtain a temporary permit prior to participating in the Off-Premise Sale.

**6. INVITING QUALIFIED DEALERS FROM CONTIGUOUS COUNTIES;
SPECIFIC INDUSTRY GUIDELINES:**

A. AUTOMOBILE/TRUCK:

- (1) If there are no automobile or truck dealers in the host county, all qualified dealers in contiguous counties must be invited to participate.
- (2) If there is even one automobile or truck dealer in the host county, no dealers from outside the host county may be invited to participate.

Examples: 1. There are no automobile or truck dealers in the host county. All qualified dealers in contiguous counties shall be invited to participate.

2. There is only one dealer, a GMC Truck dealer, in the host county. No dealers from contiguous counties may be invited to participate.

B. ALL TERRAIN VEHICLE AND MOTORCYCLE:

- (1) Dealers from contiguous counties may be invited to participate in an Off-Premise Sale provided:
 - (a) There is no local dealer selling the manufacturer's product line sold by the dealer in the contiguous county.
- (2) If a sponsor invites any qualified dealers located in contiguous counties, sponsor shall invite all qualified dealers located in contiguous counties, except those who are not eligible to participate because a local dealer sells the same manufacturers product line.

Examples: 1. There are three dealers in the host county, Honda, Suzuki and Polaris. There is no Yamaha dealer, Yamaha dealers from contiguous counties may be invited to participate in the sale. Qualified dealers in contiguous counties selling all other manufacturers' product lines, except the lines sold by the three local dealers, may also be invited to attend.

2. There are only two dealers in the host county. They sell Yamaha and Suzuki motorcycles. The Yamaha dealer participates in the sale, and the Suzuki dealer does not. No Yamaha or Suzuki dealer in a contiguous county may be invited to participate in the sale.

3. Sponsor may choose to limit the sale to certain types or a combination of types of vehicles.

C. RECREATIONAL VEHICLE:

- (1) If there are no local dealers who sell a certain manufacturer's model line products, qualified dealers in contiguous counties who sell that manufacturer's model line products may be invited to attend.
- (2) If a sponsor invites any qualified dealers located in contiguous counties, sponsor shall invite all qualified dealers located in contiguous counties, except those who are not eligible to participate because a local dealer sells the same manufacturer's model line product.
- (3) A statewide show may be held if the following conditions are met:
 - (a) The sponsor must obtain signed favorable sanction from a majority of licensed RV dealers in the state.
 - (b) Manufacturer model lines represented in the host county may not be sold or displayed without prior written approval from the host county dealer(s).

- Examples: 1. There is a Fleetwood dealer in the host county who has a franchise agreement and license for Southwind and Pace Arrow model lines. No Fleetwood dealers from contiguous counties with the same model lines may be invited to participate in the sale, whether the local Fleetwood dealer participates or not.*
- 2. There are Fleetwood and Thor dealers in the host county. The Thor dealer participates in the sale, and the Fleetwood dealer does not. No Fleetwood or Thor dealer in a contiguous county may be invited to participate in the sale with the same model line as host county dealer, unless written approval is received from the host county dealer.*

7. DISPLAYS:

Dealers may display new motor vehicles at locations other than that for which a license is held, provided:

- A. Commission approval has been granted, and
- B. Display Request Form is on file at the Commission office, and
- C. Dealer personnel shall not be present, and
- D. Sales and solicitations are prohibited, and
- E. Displays are within dealer's relevant market area as defined in franchise agreement or sales and service agreement on file in the Commission office or as defined by A.C.A. § 23-112-103 et seq., whichever is greater, and
- F. Vehicles are the line-make or model line for which license is held.

8. EXCEPTIONS FOR NEW CAR DISPLAYS AND USED VEHICLE SALES

- A. **NEW & USED VEHICLE DISPLAYS:** A new motor vehicle dealer licensed by the Commission may display not more than five (5) new vehicles per franchise held without obtaining prior written approval from the Commission as long as the display is at a public venue and within the licensed dealer's relevant market area and no sales or management personnel present, nor sales solicitations made.
- B. **USED VEHICLE SALES:** A new motor vehicle dealer licensed by the Commission may conduct off-premise sales of used motor vehicles, without obtaining prior written approval from the Commission as long as the sale location is at a public venue within the geographical limits of the licensed dealer's relevant market area and no new vehicles are displayed or offered for sale.

9. MANUFACTURER OR DISTRIBUTOR EVENT(S)

- 1. Events may be conducted by a Qualified Manufacturer or Distributor provided the following qualifications are met:
 - (i) The event is held at a public venue.
 - (ii) If the event promotes any dealer of its Franchise line at the event, the Manufacturer or Distributor shall promote all of its Franchise Dealers licensed by the Commission.
 - (iii) The requesting Manufacturer or Distributor has not had its event privileges suspended or revoked by the Arkansas Motor Vehicle Commission or the Executive Director.

A. In order to obtain approval for a Manufacturer or Distributor Event the Manufacturer or Distributor must:

1. Submit the request to conduct any Manufacturer or Distributor Event for approval to the Arkansas Motor Vehicle Commission on the form provided by the AMVC office at least forty-five (45) days prior to opening day of the Event. The forty-five (45) day requirement may be waived by the Executive Director for good cause shown. Attached to the request form shall be:
 - (a) A list of all dealers the Manufacturer or Distributor will be promoting.
 - (b) A sample notice, invitation or registration form.
 - (c) Two (2) tickets to the Event, if there is an admission fee. A letter of admittance is allowed as well, although Commission representatives may attend at any time with or without admission.
 - (d) If approval is obtained a copy of the approved form from the Commission must be forwarded to each participant.
2. Events may be held in conjunction with an approved Off-Premise Sale, provided:
 - (i) The Off-Premise Sale is conducted in accordance with this Rule.
 - (ii) No Off-Premise Sale, held in conjunction with a Manufacturer or Distributor Event, may be exclusive to the Manufacturer's or Distributor's Franchise Dealers.
 - (iii) The Manufacturer or Distributor does not sell, advertise for sale, or offer for sale any motor vehicle to a consumer.

2. Any person or entity found to be in violation of this subsection shall be subject to all remedies available pursuant to A.C.A. §23-112-101 et. seq. and the rules promulgated thereunder.

10. MANUFACTURER ALLOWED NEW MOTOR VEHICLE DISPLAYS

A. If the purpose of the show is to display vehicles for the general public to review and inspect a manufacturer's or a distributor's new motor vehicle(s), whether or not a Commission license is held by the entity, and the display is held at a public location in conjunction with a sponsored Off-Premise Sale, the following guidelines must be met in order for permission to be given:

1. Submit the request to conduct an Off-Premise Sale for approval to the Arkansas Motor Vehicle Commission on the form provided by the AMVC office at least forty-five (45) days prior to opening day of the Off-Premise Sale. The forty-five (45) day requirement may be waived by the Executive Director for good cause shown. Attached to the request form shall be:
 - a) The location and date(s) of the Off-Premise Sale.
 - b) A statement that the vehicle(s) will belong to the manufacturer.
 - c) A statement that there will be no signs or written reference in the event area identifying any dealers.
 - d) A statement that no sales activity will take place.

2. A manufacturer may display its vehicles at its manufacturing plants without requesting permission from the Arkansas Motor Vehicle Commission to hold such an event. However, a manufacturer cannot have a new motor vehicle display of vehicles assigned to area dealers at its plants or facilities.
3. Permission will be granted in the form of a letter. The sponsor of the Off-Premise Sale is required to provide a copy of the Off-Premise Sale Request form to all participants.
4. Manufacturer or Distributor personnel may be present.

11. CANCELLATION, SUSPENSION OR TERMINATION OF OFF-PREMISE SALES DISPLAYS AND/OR EVENTS; GROUNDS

- A. The Executive Director of the Arkansas Motor Vehicle Commission may suspend, cancel, or terminate an Off-Premise Sale, Off-Premise Display, Manufacturer or Distributor Display or Event. The Executive Director may also issue an immediate termination order of an Off-Premise Sale, Off-Premise Display, Manufacturer or Distributor Display or Event, if the Executive Director determines that the licensee or sponsor:
 1. Has made a material misrepresentation or misstatement in the licensee's or sponsor's request for an off-premise sale or display approval.
 2. Has used or is using any false advertising as defined by Rule 3 Advertising.
 3. Has violated or is violating a law of this state or a rule adopted by the Commission pursuant to law.
 4. Is conducting an Off-Premise Sale, Off-Premise Display, Manufacturer or Distributor Display or Event without permission.
 5. Is conducting business in Arkansas without a license as required in A.C.A. §23-112-301.
- B. If the director determines that the licensee or sponsor has failed to obtain an off-premise sale or display permit, or has failed to comply with the cancellation, suspension or termination, the director may suspend the privilege of obtaining subsequent off-premise sale and display permits for a period of one year from the date of suspension.
 1. Any person or licensee refusing to obey the order shall be in violation of this Rule.
 2. Any person violating this section shall be subject to any and all remedies available pursuant to A.C.A. §23-112-101 et seq., and rules promulgated thereunder.