

PLAIN DEALING

A policy and administrative bulletin for Wisconsin licensed dealers

Volume 22 Issue 1

“Nothing astonishes men so much as
common sense and plain dealing.” R.W. Emerson

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New dealer plates coming in 2011



WisDOT will issue a new style plate for motor vehicle dealer licenses in 2011. The good news is that motor vehicle dealers will be able to keep their original dealer plate number and, for the first time in WisDOT's history, the dealer number will be accessible on the Department of Justice TIME system. This allows law enforcement to run a dealer plate and immediately see which dealership has the plate. This cannot be done today. Currently, law enforcement has to call the Dealer and Agent Section during business hours to determine which dealership has the plate. One big change will be the removal of the suffix from the plate number. The plate will be black lettering on aluminum. This style plate also saves WisDOT approximately \$85,000 a year annually.

Why the change?

WisDOT is building a new business licensing database called BLiS to replace an archaic database that can no longer be supported by the department. The new system must be tied to the registration system in order for law enforcement to have access to the plate numbers. Eliminating the suffix allows WisDOT to integrate plate issuance and inventory management into the registration system. The new system cannot handle plate configuration incrementing alpha characters. Unfortunately, BLiS and the registration system cannot be built to converse with one another without additional costs and resources that are not available.

How will the plates be tracked?

Tracking of the plates will be a change for the dealership. However, the fact that the plate can now be readily accessed by law enforcement will be a plus for the dealership. The dealership can identify their plates by using a marking system on the back of the plate or any system that it chooses to use that does not change the face of the plate.

Are the lost and stolen plates recorded?

Yes, however, just the number of plates will be recorded. BLiS will capture the number of license plates your dealership has in its possession. At renewal time you will simply report the number of plates in your possession and BLiS will charge you accordingly.

Mandatory lien processing update

With the July implementation of mandatory lien processing, more and more liens are being released electronically. As a dealer, you may be faced with the task of using the electronic record to show to auctions, lenders or customers that the lien is cleared. In order to comply with the law and expedite commerce, it is important to understand the proper and permissible use of electronic records.

The inquiry function on your electronic title processing system is for legitimate business use only. WisDOT's electronic processing program standards establish that access and use of DMV record information are limited to that required for the electronic completion of the title or registration transaction at hand. Examples of appropriate business use include looking up a potential trade-in vehicle to search for brands, or to verify that the trade-in title presented by the customer is the most current document.

Because of privacy laws, these system inquiry screens should not be printed and distributed to fulfill the demand for provision of records to your customers or others.

Two alternatives are suggested for dealers to provide needed electronic record information:

- ◆ WisDOT's lien look-up program

<http://on.dot.wi.gov/applicationdoc/lien/index.htm>

- ◆ The electronic receipt that was sent to the seller stating that the lien was released by the financial institution. You may want to check with your title processing vendor to be certain a receipt is available through their system.

The best option is to use the electronic lien look-up program. You can always print a copy of the lien look-up record and provide that to your customer.

More e-updates



If re-finance paperwork comes to WisDOT for manual processing and the new lien add transaction could have been processed electronically by the lender, the financial institution will be assessed both the manual processing fee and the additional surcharge.

A new set of title numbers will be produced for lien adds processed electronically. These title numbers will begin with the letter "S," and paperwork for these transactions will not be imaged. Lenders will be required to hold the original title for a period of time and then destroy it. "S" title numbers are legitimate and can be used in subsequent title transactions.

If you are submitting an application for correction, please complete the *Third Party Request For Title Or Registration Correction* which is form MV1047.

For more information on the mandatory lien processing requirements, please visit our Web site at:

- ◆ <http://www.dot.wisconsin.gov/business/dealers/financial-inst.htm>

Be careful when using “not actual” as an odometer status

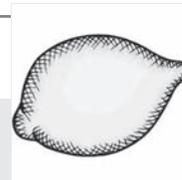
In order to comply with the Federal Truth in Mileage Act of 1986 and NHTSA's legal requirements, WisDOT made changes to the use of the “not actual” status on Wisconsin titles. This came to light when Wisconsin recently applied for an exemption from paper odometer disclosures, so we can begin developing an electronic odometer disclosure.

In the past, WisDOT has been able to go back and change the “not actual” status to “actual” upon receipt of a valid MV2488 form. Effective July 1, 2010, this is no longer the case. Once the status of an odometer reading is recorded as “not actual” it cannot be changed back to “actual” unless the processor made an error at the time of processing.

As a third party processor, we want to remind you that you cannot process ANY incomplete applications. This includes applications that do not have the odometer statement completed by the seller. If, for any reason, this information is not provided by the seller, it must be entered as “not actual” when processing and documented as an odometer reading provided by the buyer. Examples of this are when the seller leaves the odometer reading blank on the title and the buyer fills it in.

Buyers should be made aware of the effect this may have on the value of the vehicle they are purchasing. Their best option is to get the MV2488 (*Vehicle Transfer and Odometer Mileage Statement*) completed *before* processing the title. Again, once the status is captured as “not actual,” it will *not* be changed back.

Arbitration program— Nissan/Infiniti—certified



The arbitration program for Nissan/Infiniti has been certified by WisDOT as meeting the requirements of the Wisconsin Lemon Law. The BBB AUTO LINE Program, administered by the Council of Better Business Bureaus, provides the informal dispute resolution service. Any consumer who purchased a Nissan/Infiniti vehicle sold or leased new on or after September 1, 2010 is required to go through the arbitration process before otherwise enforcing their lemon law rights.

Facts about arbitration:

Arbitration is an informal way for consumers to resolve complaints without going to court. The consumer and manufacturer provide an arbitrator, often a volunteer from the community, with information about the ownership experience. With a certified program available, Nissan/Infiniti consumers must use it before suing under the Lemon Law. Non-certified programs are voluntary for the consumer. A consumer does not have to accept a decision made by the arbitrator, but it is binding upon the manufacturer.

Facts about the Lemon Law:

Wisconsin's Lemon Law applies to vehicles purchased or leased new and still under warranty. If the vehicle has a serious defect that the dealer can't fix in four attempts, or if it has one or more defects that prevent the consumer from using it for 30 or more days (does not have to be consecutive) within the first year, it may be found to be a lemon. Consumers may be eligible for a replacement vehicle or refund. For more information, go to:

www.dot.wisconsin.gov/saftey/consumer/rights/lemonlaw.htm

Junking online is available

WisDOT offers an online service which allows you to junk your vehicles online using the e-MV11 program.

The program is Internet based and is free to use. There are no fees or additional software to purchase. You can be up and running as quickly as two days, and the only requirements are a computer, Internet connection and printer.

For complete information, please visit WisDOT's Website at <http://www.dot.wisconsin.gov/business/dealers/emv11/index.htm> or call the dealer hotline at (608) 266-1425.

Fond du Lac county tax in effect

Fond du Lac County has adopted a one-half percent (0.5%) county sales and use tax, effective April 1, 2010. The sale of vehicles customarily kept in that county will be subject to the tax if purchased on or after that date.

Dealer license reminder-bond up-to-date?

One of the most common errors made when submitting a dealer renewal is forgetting to make sure your surety bond or irrevocable letter of credit is up-to-date. WisDOT cannot renew your license without valid credentials. Please call 608-266-1425 if you have questions.

“Speed” slot now shows on Wisconsin Buyers Guide

Dealers are required to make disclosures regarding the number of forward speeds available in the vehicle's transmission as specified in Trans 139.04(1)(a)3, Wis. Adm. Code.

The vehicle price, model year, make, model, identification number, color, engine size, when determinable, for example, 350 cubic inches or 3.8 liter and number of cylinders, and type of transmission, for example, automatic or manual and number of forward gears, and drive type, for

example, front wheel drive, rear wheel drive or 4-wheel drive. The rule does not differentiate between manual and automatic transmissions. WisDOT investigators tell dealers to disclose the number of forward gears regardless of transmission type.

In a case of transmissions like constant velocity transmissions without discrete gears, investigators encourage dealers to simply write “constant velocity transmission” in “other items” on the guide.

New title stock

Beginning late October your dealership should begin seeing new title stock. The stock is a smaller font and, therefore, costs less. However, there is one less reassignment on the back of the title. A title only can be issued to the dealership when all reassignments are full.

Rules change for dealers selling collector vehicles

WisDOT is concerned that vehicles that do not qualify for collector registration may be titled/registered incorrectly. To address this concern a new policy for the handling of collector title and registration has been implemented. Dealers who sell collector vehicles must submit all collector license plate applications to the address below:

◆ WisDOT-Special Plates Unit-P.O. Box 7911 -Madison WI 53707-7911

You may issue the consumer a temporary plate if they do not have a plate to transfer. The application will be returned to the consumer if you do not send the items listed below:

<http://www.dot.wisconsin.gov/drivers/vehicles/personal/special/collecto.htm> (Signed MV2323, please toss old forms)

◆ Pictures of the engine compartment, interior and exterior of the vehicle, and all sides.

A check or money order payable to: Registration Fee Trust. Questions, please contact 608-266-3041.

DOT criminal actions

Bowers, Alaric, Preferred Luxury Leasing — Franklin — Alaric Bowers, former owner of Preferred Luxury Leasing of Franklin, was sentenced for one count of bank fraud on 8/3/10 to 24 months incarceration in Federal prison, \$480,514 in restitution, five years supervised release and a self-surrender date of 11/01/10. This was a plea deal due to multiple counts of bank fraud relating to his former dealership. Bowers used his electronic processing access to wash liens off vehicles to defraud the financial institution who funded the vehicles. This was the result of an investigation by Investigator Jim Bartnik and the FBI.

Capouch, Shawn — Blair — Pled Guilty to two misdemeanor charges of false representation and paid a fine of \$1,000. Capouch also paid restitution to the owner of the now-defunct Keenan's Cherryland of \$12,413.73 and to victim Dubois of \$8,543.46. Capouch was involved in an odometer fraud scheme.

Grajek, John — Lake Geneva — Charged with two misdemeanor counts of theft. Grajek allegedly stole two vehicles from a friend, forged the titles and sold the vehicles through two separate motor vehicle dealers. Both vehicles were returned to the rightful owners.

Kindler, Jason — Kindler Car Company dba Second Street Auto — Portage — On 6/28/10, Jason Kindler was found guilty of one count of transfer of encumbered property (a second charge was dismissed and read into this charge). Kindler is currently serving four years in prison with six years of extended supervision on arson charges. The transfer of encumbered property charge sentence is 48 months probation, 150 hours of community service, restitution of \$23,555.03 to Western Surety, no motor vehicle related business for term of probation, 25% of monies deposited into his prison fund go to payment of fines, cost, and restitution. Any remaining balance at end of confinement shall be paid as a condition of extended supervision.

Malec, Kenneth — Malec Motors — Cross Plains — Sentenced to one year in jail and seven years of probation for defrauding consignors. Malec sold consignors' vehicles at auction, forged their names to the titles, and kept the money. Malec's charges were reduced to three felony counts for theft in a business setting. Restitution has been ordered in the amount of \$280,317. The dealer's bond paid \$112,000 to harmed consumers and some were paid by their own insurance companies. Three vehicles were recovered and returned to the consignors.

Rullman, Billy — Lake Geneva — Charged with one felony count and one misdemeanor count of theft by false representation in Walworth County Court. Rullman, a salesperson for Racine Truck and Equipment, allegedly transferred a customer trade-in to his own custody, sold it, and failed to pay the prior owners of the vehicle and trailed the proceeds from the sale.

Van Vleet, Tanya dba Psychle Werks — La Crosse — Pled guilty in federal court to one count of bank fraud.

Vernier, Tim and Stephen dba (former) Norris-Vernier Auto Sales — Tomah — Sentenced to 24 months in federal prison for defrauding a federally-insured bank. Both men were also ordered to serve three years of probation and restitution in the amount of \$1,422,566.32

DOT enforcement actions

Eau Claire Auto Exchange — Eau Claire — dealer license suspended for one month for their involvement in altering the VIN on a Chevrolet Lumina. After the VIN switching, the vehicle was then used as a loaner for one year and sold to a retail buyer.

Insane Choppers — New Berlin — motorcycle dealer license was suspended for five days as part of a conditional license agreement for the dealership. Investigators found that the dealership had failed to complete purchase contracts and had improperly withheld down payments from customers.

JB Auto Sales — Chippewa Falls — motor vehicle dealer license application denied because entity owner Gerald Brummond is liable for delinquent Wisconsin taxes in the amount of \$140,016.24, together with accruing interest.

Sanchez Auto Sales — Madison — The Division of Hearings and Appeals upheld the denial of an application for a retail dealer license for failure to disclose prior to criminal convictions.

Vega Palacios, Ruben — Milwaukee — Salesperson license denied due to recent unlicensed dealer activity and illegal use of an out-of-state license to access Wisconsin auctions.

DOT citations

Boyea, Craig — Green Bay — Cited with 25 counts of failure to transfer title. Boycea has been an unlicensed salvage dealer in the Green Bay area. He has been warned numerous times over the past three years and has disposed of several hundred vehicles.

Boyea, Craig — Green Bay — Cited with 50 counts of failure to transfer title totaling \$8765.00. Several weeks earlier he was issued 25 citations totaling \$4382.50 for the same violation. Boycea acted as an unlicensed salvage dealer.

Gilbertson, Terry — Holmen — Cited with six (total) counts of operating as a motor vehicle dealer without a license. Gilbertson was fined \$438 for one count, \$753.00 for each of two counts, and \$757.50 for one count. Remaining counts were dismissed.

Harrison, Richard H. Jr. — Glidden — Cited with 10 counts of failure to transfer title and one count of unlicensed dealer. State Patrol is also citing Harrison for unlicensed salvage.

Harvey, Charles — Sussex — Cited with 18 counts of failure to transfer title. Default judgment for \$3,609.00.



Mendez, Rodrigo — Green Bay — Cited for acting as a dealer without a license. Mendez was using an Indiana dealer license to buy at Badger State Auto Auction and resell the vehicles in Brown County.

Rios, Pablo dba Fast Track Auto — Milwaukee — Cited with seven counts of unlicensed dealing. Rios used an Indiana dealer license to purchase vehicles at WI auctions and resell them in Milwaukee.

Tohak, Christopher — Kewaunee — Cited with 30 counts of failure to transfer title. Tohak has been acting as a salvage dealer without a license and has continued to do so after being warned. If convicted, fines could total \$5259.00.

Walsh, Brandon — Green Bay — Cited with four counts of acting as a motor vehicle dealer without a license. Walsh received a warning letter regarding his activities and has continued selling vehicles.

Walsh, Brandon — Green Bay — Cited with one count for failure to transfer title and one citation for acting as a dealer without a license totaling \$943.30. Walsh was cited several weeks earlier for acting as a dealer without a license and has continued to sell vehicles and is now title jumping.

