



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

R.W. Emerson

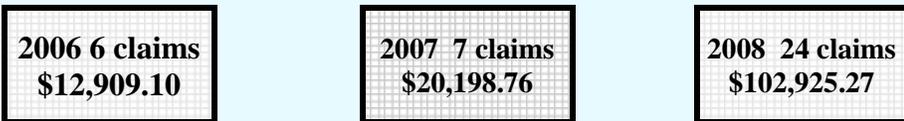
When can a bond claim be filed against your dealership?

In our last issue, we talked about our economy and the possibility of dealers going out of business. In 2008, over 130 dealerships went out of business. This issue our focus is on making sure that motor vehicle dealers understand the need for the dealership’s bond or irrevocable letter of credit to be in good standing. Chapter 140 of the Wisconsin Administrative Code relating to motor vehicles requires this surety bond or irrevocable letter of credit to be filed in the amount of \$50,000. In some cases, when a dealer goes out of business there are no assets left, consumers are harmed and there is no choice for the consumer to be made whole without them filing a bond claim. The majority of bond claims are filed when a dealer goes out of business. A claim can be filed against the dealership when the claim meets all three of the following conditions:

- « The consumer is faced with monetary damages in the amount of an actual loss.
- « The claim arose during the period covered by the bond.
- « The claimant’s loss was caused by an action of the bonded licensee that would be grounds for license revocation or suspension.

The bond company is notified when a bond claim is filed against the dealership’s bond. WisDOT completes an initial review of the claim and sends the claim to the Department of Hearings and Appeals (DHA) to be assigned a hearing examiner. Generally, a legal notice is published in a newspaper in the general area of the dealership when a bond claim is filed against a dealer who is out of business. The deadline for receipt of additional claims is 60 days after the published notice.

The hearing examiner issues a preliminary determination in which you have 30 days to object to the determination. The preliminary determination becomes the final decision, if there are no objections to the claim. Remember, if a bond company pays a claim they will come to you for reimbursement of any amounts they pay. The charting below shows the claims forwarded to DHA and the monies awarded to the claimant by DHA from 2006-2008. Call Diane Roelke at 608-264-7194 if you have any questions.



Audio equipment exemption includes navigation systems

Recently, WisDOT was asked if in-dash navigation systems and factory installed DVD players systems were excluded from the 6% damage disclosure rule for new vehicles.

Trans 139 excludes audio equipment from the 6% damage rule. WisDOT agrees that both the navigation systems and DVD players are considered audio equipment and are, therefore, exempted from the 6% damage threshold.

WISCONSIN DEPARTMENT OF TRANSPORTATION

PLAIN DEALING SPRING 2009
A policy and administrative bulletin for licensed dealers from the Dealer and Agent Section of the WisDOT
Division of Motor Vehicles

Inside this issue

Broker license concerns	2
Deletion of registration hotline	3
Enforcement and Citations	4

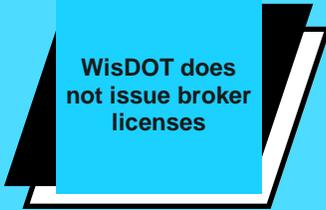
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City of Mayville passes wheel tax

The city of Mayville has passed a \$10 wheel tax. Beginning April 2009, vehicles kept in the city of Mayville will be subject to a \$10 wheel tax at the time of registration renewal. Wheel tax applies to automobiles and motor trucks registered at a gross weight of not more than 8,000 pounds. The effective date for Mayville is April 1 for registrations expiring on or after that date, but for base plate issue the date of operation must be April 2 or later.



Can I obtain a broker's license in Wisconsin?

WisDOT receives several inquiries each year from prospective businesses wishing to provide a range of services assisting car buyers in completing some or all of their car-buying transaction. Services may range from providing a simple vehicle listing service to locating a vehicle and negotiating price on behalf of the customer.

WisDOT's brokering specialist reviews plans submitted by these prospective businesses and determines whether their services require a Wisconsin dealer license. Some states issue a special "broker license" for businesses that work as intermediaries in the vehicle transaction but don't meet the standard definition of a "brick and mortar" dealership. Wisconsin, however, does not issue a broker license. Any business engaged in the sale of motor vehicles is required to hold a dealer license. Only businesses offering certain auxiliary services and receiving compensation unrelated to the sale of a vehicle qualify to do business without a dealer license. So, whether a business calls itself a "vehicle broker" or not, is unimportant. The nature of services the business provides determines whether the business is subject to Wisconsin dealer licensing laws.

In Wisconsin, the definition of a "dealer" includes not only people who buy and sell vehicles, but also those who offer or "negotiate" vehicle sales. It also includes businesses that sell vehicles they do not own on behalf of others. Since brokers generally buy and sell vehicles on behalf of others, they meet the dealer definition and require a standard retail dealer license.

A business may need a dealer license even if it does not negotiate vehicles sales. Certain advertising or marketing services require a dealer license, because they provide the service for a commission based on actual vehicle sales, rather than for a flat fee. Likewise, a business that finds potential buyers for dealers or lists vehicles for sale by dealers and receives a commission based on vehicle sales is considered a dealer even if the business never owns the vehicles offered for sale.

However, WisDOT does not require a dealer license for advertising agencies, newspapers, or other businesses that charge a flat fee to list vehicles for sale by dealers or private citizens. "Flat fee" means a fee that does not depend on whether the vehicles are actually sold or varies with the sale price of the vehicle.

Since brokers are generally unable or unwilling to meet dealer license requirements, such as providing dealership facilities, display areas and franchises for new car sales, few of them choose to operate in this state. Wisconsin's clear definition of a dealer and uniformly-enforced facility requirements has encouraged some large national and international brokering firms to work with WisDOT to tailor their business plans to Wisconsin law. By providing only listing and advertising services that do not constitute a vehicle sale or result in commission based on a sale, these firms have found a way to provide services in Wisconsin without needing a dealer license.

WisDOT encourages businesses or individuals who are unsure if their planned business will require a Wisconsin dealer license to submit a written proposal or business plan to the Dealer and Agent Section for review. WisDOT will review the proposal and provide dealer license application materials or suggestions for program modifications that would eliminate the need for a dealer license.

For questions call the Dealer and Agent Section customer service hotline at 608-266-1425.

Proposals may be sent to:

Dealer and Agent Section
Re: Dealer license review
PO Box 7909
Madison, WI 53707

Dealer Registration Hotline eliminated # 608-261- 0251



The dealer registration hotline as you know it, 608-261-0251 will be eliminated as of April 1, 2009. Below you will find specific phone numbers where you may call to find your requested information. This chart defines the appropriate number to call to have your questions answered.

Question—topic	General Inquiry Unit
Odometer discrepancies	414-266-1000 608-266-1466 press 2, 1, then 1
Mechanics liens	414-266-1000 608-266-1466 press 2, 1, then 1
Heavy vehicles	414-266-1000 608-266-1466 press 2, 1, then 1
Salvage vehicles	414-266-1000 608-266-1466 press 2, 1, then 1
Emission questions	414-266-1000 608-266-1466 press 5, 1, then 0
Secured party questions	414-266-1000 608-266-1466 press 5, 1, then 0
Personalized plates	414-266-1000 608-266-1466 press 5, 4, 1, then 0
Parking Tickets	414-266-1000 608-266-1466 press 5, 1, then 0
Driver license questions	414-266-1000 608-266-1466 press 4, 6, then 6
Question—topic	Agent Partnership Group
General dealer titling related to processing and paperwork	608-266-3566
Electronic processing questions	608-266-3566
Errors on applications processed by dealer	608-266-3566
Question—topic	Customer Service Group
Sign up for electronic processing programs	608-266-1425
Dealership licensing	608-266-1425
Consumer protection concerns	608-266-1425
Question—topic	Plate room
Temporary and metal plate orders	608-266-1473

DOT enforcement actions

Ardell Motorsports, Sheboygan- Special Order and five-day Suspension issued for facilitating unlicensed motor vehicle dealer activity.

Badger Auto Sales, Milwaukee- Special Order issued for failing to maintain temporary plate records and for failing to display Wisconsin Buyers Guides on vehicles offered for sale.

Canadian Auto Associates, Racine- Special Order issued for selling vehicles that they were not franchised to sell and for failing to maintain their logbook.

Nisenbaum, Stuart, New Berlin- Application for salesperson's license denied due to criminal charges for illegally selling temporary plates as a representative of Northwoods Motor Cars.

Right Way Motors, Sussex- Special Order issued for failing to submit applications for title to the Department within seven business days.

Sunshine Auto Sales, Menasha- Special Order issued for failing to execute purchase contracts for vehicles sold; failing to submit applications for title within seven business days; failing to possess titles for vehicles offered for sale; failing to obtain licenses for salespersons; failing to maintain records including logbooks and temporary plate logbooks; and failing to properly inspect and complete buyers guides for vehicles offered for sale.

DOT criminal actions

Brown, Jeffrey, Stevens Point- Pled guilty to one count of felony forgery, felony identity theft, and issuing worthless checks, and two misdemeanor counts of issuing worthless checks. Sentenced for felony forgery. Sentence resulted in six months in jail, four years probation, and \$5156.63 in restitution.

Nisenbaum, Stuart, Jackson- Pled guilty to one count of unlawful transfer of registration and sentenced to a fine of \$828.

Said, Dennis, Blanchardville- Pled guilty in federal court to one count of bank fraud and money laundering. Sentenced in federal court to eight years and four months in prison, followed by three years probation and \$3,445,981.77 in restitution. Said is the former owner of Trucks 4 U.

Yadro, Scott, West Allis- Pled guilty to three counts of theft and two counts of issuance of worthless checks. Sentenced to five years in prison on five charges and paid \$37,206 in restitution. Sentence was stayed, five years probation and will remain incarcerated in Florida until he is expedited to face additional fraud charges. Yadro was the owner of Milwaukee Garage.

Yang, Thao Bee, Green Bay- Found guilty in federal court of one count of odometer tampering. Sentenced to six months in federal prison, one year of supervised release and restitution. Yang was the former owner of Bee's Auto Sales and Easy auto Sales.

DOT citations

Ardell, Korry, Elkhart Lake- Pled no contest to one citation for acting as a motor vehicle dealer without a license and one citation for failing to obtain title for a motor vehicle and was assessed \$913.80 in forfeitures.

Helmer, Michael, Ripon- Pled guilty to one citation for acting as a motor vehicle dealer without a license and one citation for failing to transfer ownership of a motor vehicle and assessed \$913.80 in forfeitures.

Rusch, Timothy, Sun Prairie- Pled no contest to one citation for acting as a motor vehicle dealer without a license and was assessed a \$753 forfeiture.