



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

R.W. Emerson

Trans 137 138 139 rule changes effective September 1

On September 1, 2008 rule changes take effect for chapter Trans 137, 138 and 139 of the Wisconsin Administrative Code. These changes relate to the motor vehicle dealer franchise law, dealer record keeping and dealer trade practices. Please see the chart on pages 2 and 3 for complete details which define the new language and the reasons for the change.

Allow your customers to transfer plates when buying a vehicle

Recently, our registration hotline staff reported increased calls from customers who are complaining they are unable to transfer license plates when purchasing a vehicle. Instead, they are being told to purchase a new plate. All cars and light trucks must display temporary or permanent license plates in order to be operated on public roads. An owner who has plates to transfer meets this requirement by listing the plate number on their paper or electronic application and by putting the plates on the newly purchased vehicle.

In many instances, the customer may prefer to keep the plates they are currently using. A customer need not transfer plates from a trade-in vehicle; they may transfer any plate they own that meets the registration transfer requirements. If a customer has a valid plate they wish to transfer, it is not necessary to make the customer purchase a new set of plates. The issuance of a second set of plates costs the customer additional registration fees and leaves them with a valid, unused plate that they may have just recently renewed.

Should a customer decide that he or she would like to privately sell the vehicle from which transfer plates came, potential buyers may not test drive the vehicle without valid registration. You may wish to educate your customer on this point; however, your responsibility is for the vehicle leaving the sales lot. You should still transfer a plate from that vehicle rather than issue new plates if the customer wishes to do so. If you have questions regarding what plates can be transferred, call our registration hotline at 608-266-3566.

e-MV Lien Agent soars ahead!

Last issue, the Spring 2008 publication, we told you about our newest electronic application “e-MV Agent.” We are pleased to report that although the program is still a pilot, we already have 25 lenders participating. The lenders are very enthusiastic about the program. The setup is quick, free and easy. The ability to add and release liens saves both time and money. Please pass this information on to your financial institutions. This could mean a faster turn around on your lien releases. For more information, go to our website at : <http://www.dot.wisconsin.gov/business/dealers/emvagent/index.htm> or call the dealer hotline at (608) 266-1425.

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Plain Dealing is published quarterly by the Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Dealer and Agent Section.

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September 1st Trans 137 138 139 rule changes

Define “Title” in Trans 137,138 and 139

“Title” means certificate of title issued by the Wisconsin Department of Transportation under ch.342, Stats., or by another state in conformity with its applicable law, as evidence of ownership of a specific vehicle.

Why? Dealers are subject to a variety of requirements in our dealer regulations related to vehicle titles. Most notably, they’re generally required to have titles for the cars they’re selling. This addition to the rules makes sure that everyone knows that we’re talking about the actual certificate of title when we use the term “title.”

Prohibit the practice of “bird dogging”

Trans 139.035 Unfair trade practices. (1) For purposes of this section, “bird dogging” means an arrangement by a dealer or salesperson that provides consideration of any kind to a third party for sales leads, contingent upon a sale of a vehicle. (2) Engaging in bird dogging is an unfair trade practice and is prohibited.

Why? Bird dogging is getting paid by a dealer for generating successful sales leads for that dealership. The practice of “bird dogging” or referral selling, is currently generally prohibited by state statute, but not clearly by any statutes directly enforced by WisDOT. This change adds the prohibition of bird dogging directly to our rules.

Permit centralized recordkeeping for dealer groups

Trans 138.04(3) - added to end of paragraph: Multi-location dealerships may keep records at a single location. If the location is out of state, the dealerships shall reimburse the department for actual and necessary expenses....

Why? Dealer groups, especially national organizations, have found that efficiencies in management, quality control and cost can be achieved by centralizing record keeping for their groups. This rule permits the practice while ensuring that DOT investigators continue to have access to records.

Exempt damaged rental/lease vehicles from franchise law

Trans 137.03(9)(b)3 - Add language to end of paragraph: “..has sustained damage while being operated under a rental agreement as defined in s.344.57(5), Stats., or a lease agreement under ch. 429, Stats.,.....”

Why? Sometimes cars that would otherwise qualify as “new” under Wisconsin’s franchise law (can only be sold by new car dealers) are damaged while being leased or rented and must be disposed of after repairs are made. This allows rental and leasing companies to sell these damaged vehicles in Wisconsin.

September 1st rule changes continued

Allow dealers to compare used car prices to blue book value

Trans 139.03(5) Used Vehicle Comparative Savings. (Add to end of paragraph) - "...except that a motor vehicle pricing guide may be used if the use of the guide as the source of the pricing is stated in any required disclosure and the dealer makes the full objective documentation used to set the price available in writing to the customer."

Why? Currently, dealers may not compare the prices of their used vehicles to the Blue Book value of the vehicle. With Blue Book and similar values now widely available online, consumers are much more aware of these values. This change allows dealers to make these comparisons, but requires them to disclose the basis for it if requested.

Copy of title in deal jacket ok on lemon law buyback sales

Trans 138.04(1)(a) Ownership records. (Add to end of paragraph) - "If the used vehicle is a manufacturer's buy-back under 218.0171, Stats., and the manufacturer holds title to the vehicle, the dealer may have in its possession a copy of the title."

Why? Dealers must generally hold the actual titles to vehicles they're selling. In the case of used lemon law buybacks, the manufacturer sometimes holds title to ensure that the dealer makes certain disclosures to the purchaser. This allows dealers selling these cars to have a copy of the title in their files, instead of the original.

Certain changes to Buyer's Guide and purchase contract allowed with DOT approval

Trans 139.05(2)(fm) If a motor vehicle dealer proposes to use any language in the purchase contract that differs from that shown in paragraph (f), the dealer shall submit the proposed language to the department. The department shall respond to the dealer within 30 days of receiving the proposed language....

Why? As new warranty products, such as manufacturer's certified used car warranties, have come into the market, our purchase contracts and buyer's guides have not kept pace. This will allow dealers to make changes to those forms, with WisDOT approval, to properly disclose these warranty products to consumers.

A note from the Department of Financial Institutions

As most motor vehicle dealerships are aware, the Department of Financial Institutions, Division of Banking ("division") co-licenses motor vehicle dealerships with the Department of Transportation. The division also licenses and regulates sales finance companies that purchase installment sales contracts and consumer leases from Wisconsin dealerships. Section 218.0114 (1), Wisconsin Statutes, indicates that no sales finance company may engage in business as a sales finance company in this state without first securing a license from the division. In addition, Section 218.0116(1)(g), Wisconsin Statutes, provides that a motor vehicle dealership's license may be denied, suspended or revoked for having sold a retail installment sales contract or consumer lease to a sales finance company that is not licensed by the division.

Recently, the division issued a cease and desist order against Western Funding Incorporated ("WFI") for operating as a sales finance company in Wisconsin without a license. The order requires WFI to cease engaging in the business, in whole or in part, of acquiring retail installment contracts or consumer leases from sellers or lessors in Wisconsin.

As noted above, a dealership could jeopardize their license if they sell any paper to an unlicensed sales finance company, such as WFI. Therefore, the division cautions all dealerships not to sell any paper to WFI and urges all dealerships to review their list of entities with whom they conduct business to make certain each entity holds a Wisconsin sales finance license and/or is exempt from holding a sales finance company license. A list of all licensed Wisconsin sales finance companies can be found on the division's website at <http://www.wdfi.org/fi/lfs/licensee%5Flists/>.

DOT Enforcement Actions

Abe's Auto – Madison: Issued a Special Order for facilitating unlicensed dealer activity.

Euhardy's Inc – New London: Issued a Special Order for failing to execute purchase contracts for sold vehicles and for failing to provide titles for vehicles to out-of-state purchasers.

Euhardy, Robert – New London: Issued a Special Order and 14-day suspension of his salesperson's license and BID card for failing to execute purchase contracts for sold vehicles and for failing to provide titles for vehicles to out-of-state purchasers.

G&B Auto Sales – West Allis: Issued a Special Order for failing to submit electronically processed applications for title to the department within seven business days.

Wayne's Auto World – Madison: Issued a Special Order and 14-day suspension of their dealer license for facilitating unlicensed dealer activity and failing to properly inspect motor vehicles prior to sale.

DOT Citations

Buck Truck & Auto – Chippewa Falls: Pled no contest to five citations for failing to submit an application for title to the Department within seven business days. Assessed \$930 in forfeitures.

Day, Delton – Appleton: Pled no contest to three citations for acting as a motor vehicle dealer without a license. Assessed \$841.50 in forfeitures.

Freitag, Shawn – Madison: Pled no contest to two citations for acting as a motor vehicle dealer without a license. Assessed \$1,506 in forfeitures.

Jensen, David – Waukesha: Pled no contest to two citations for failing to apply for title. Assessed \$321.60 in forfeitures.

Swalve, Brett – Cudahy (former owner of Brilyn Auto Body, Milwaukee): Pled no contest to one citation for failing to submit an application for title to the Department within seven business days. Assessed a \$189.50 forfeiture.

Thering, Tom – Baraboo: Pled no contest to two citations for acting as a motor vehicle dealer without a license. Assessed \$1,506 in forfeitures.

Dealer Investigator named in the new Superior office

WELCOME

The Dealer and Agent Section has named Mackenzie Dickson as the new dealer investigator in the newly created Superior office. Mackenzie is a veteran of the Iraq War and has served as a military recruiter in the Duluth/Superior area. He is a native of Douglas County and knows the area and the people well. Dickson will begin working out of the Superior office on September 2. The Superior office is located at 1701 N. 4th Street, adjacent to the DMV service center. It is being established to provide better and more responsive service to the northwestern part of the state. Investigator Dickson will serve the following counties: Douglas, Bayfield, Iron, Ashland, Burnett, Washburn, Sawyer, Price, Polk, Barron, Rusk, and St. Croix. Mackenzie's office number will be 715-392-7923. For a listing of our field investigation offices and map see: <http://www.dot.wisconsin.gov/safety/consumer/rights/dealeroffices.htm>