



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

R.W. Emerson



Hearing scheduled for rule revisions

Amendments to chapters Trans 139 and 154 of the administrative code relating to motor vehicle trade practices will be considered at a hearing set for 1:00 p.m. Thursday, April 4, 2002, in Room 421 of Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison.

Currently, Trans 139 prohibits motor vehicle dealers from charging a “processing” or “doc” (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle’s delivery. The lone exception allows dealers to charge the \$17.50 “Electronic Title/Plate Filing Fee” in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change would eliminate the prohibition on “doc” fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle’s delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The fee would not be required by law, and would require full disclosure to the consumer.

When reassigning ownership of a new motor vehicle which has not been previously titled or registered, Trans 154 currently requires the dealer to complete an odometer disclosure on a “conforming” odometer disclosure statement. This rule making will amend Trans 154 by allowing the odometer disclosure to be recorded in the designated spaces provided on the manufacturer’s document of origin when disclosing mileage that is actual.

Copies of the text of the proposed rule amendments may be viewed and printed at: <http://www.dot.state.wi.us/dmv/hearing.htm>. You may also request that a copy be mailed to you by calling the Dealer Section at (608) 264-9538. The public record will be held open until close of business April 5, 2002, to allow those who were unable to attend the hearing to submit written comments. Written comments should be directed to: Adam Boardman, Policy Analyst, WisDOT—Dealer Section, Room 806, Madison, WI 53707-7911, or fax them to: (608) 267-0323.

Interesting fact: There were 8,170 Green Bay Packer plates issued as of December 14, 2001.



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And the winners are...

The Right Way Dealer Award was presented to Nodell Cadillac Oldsmobile, Inc. of Glendale for the third quarter of 2000; Adesa Wisconsin, Inc. of Portage for the fourth quarter of 2000; Bergstrom of the Fox Valley, of Oshkosh for the first quarter of 2001; and Cooper Motors, Inc. of Stevens Point for the second quarter of 2001. The first Right Way Dealer Award was presented in 1997, and Cooper Motors is the fifteenth dealer to receive this recognition. Congratulations to the four dealers named above, to the previous award winners, and to all dealers striving to do business “*The Right Way.*”



Third Quarter 2000

Nodell Cadillac Oldsmobile, Inc. of Glendale maintains a well-organized facility and is very proactive in resolving customer concerns. We commend the staff at Nodell. They receive very few consumer complaints and resolve any complaints swiftly and satisfactorily. Nodell also participates in WisDOT’s Wise Buys consumer education program, and consistently completes licensing paperwork correctly and on time.

Fourth Quarter 2000

Adesa Wisconsin, Inc. of Portage, an auction dealer, provides prompt and thorough response to Division of Motor Vehicle requests for vehicle sales information on dealers. Adesa is a strong and valued partner of WisDOT,

participating on DMV committees and serving on panels for the advisory board.

First Quarter 2001

Bergstrom of the Fox Valley, of Oshkosh, a Toyota, Honda and Lexus dealership, is part of the Bergstrom Corporation and has dealerships at 22 locations in Wisconsin. Bergstrom maintains a well-organized facility and proactively initiates contact with its customers and DMV representatives, quickly tending to their needs and concerns. They consistently call upon their Dealer Investigator whenever necessary. Bergstrom participates in WisDOT’s Wise Buys consumer education program and APPS program (Automated Partners in Processing).

Second Quarter 2001

Cooper Motors, Inc. of Stevens Point, was recognized in conjunction with “Moving State Government Days.” Their award was presented by DMV administrator Roger Cross and WisDOT Secretary Terry Mulcahy. Cooper participates in WisDOT’s APPS program, and consistently completes licensing paperwork correctly and on time, and displays a positive attitude with their customers.



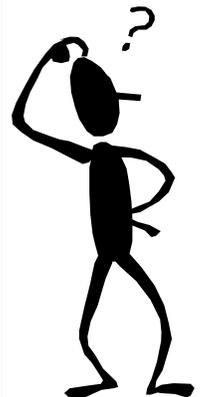
Pictured above is the team from Cooper Motors, along with DMV Administrator Roger Cross and Terry Mulcahy

The Right Way Award is presented to recognize dealers who set an example for other dealers of the right way to do business in Wisconsin. Important characteristics include good record keeping, few customer complaints, rapid complaint settlement, good attitude, partnership involvement with DMV, and a strong spirit of dedication to their community.

You be the DOT!

Compare how you would handle a real-life complaint situation with the actual resolution made by the Dealer Section.

Binding Internet sale? A dealership advertised a used customized Ford Mustang on the Internet. The dealer received an inquiry from a party in New Mexico who was interested in the vehicle. During an exchange of e-mails, the potential customer asked about potential trade-in allowances on his Mustang. After receiving information on the trade-in, the dealership quoted a potential allowance of \$12,000. After the customer traveled from New Mexico to finalize a deal, the dealership stated that his vehicle was not what they were interested in taking in on trade but offered him the used vehicle without any trade-in allowance. (How would you handle this complaint? Answer on page 7)



New Dealer Section Investigator Territories

The Dealer Section Field Investigation Unit recently reorganized the territories covered by investigators in an attempt to better serve and educate the dealerships that they represent. While some dealers will be working with a new investigator, the goal was to keep as many of these relationships as constant as possible. This reorganization was necessary to balance the needs of dealers and consumers with current staffing levels, and still maintain an efficient and effective program. Thank you for your patience. We are confident that this reorganization will benefit everyone involved.

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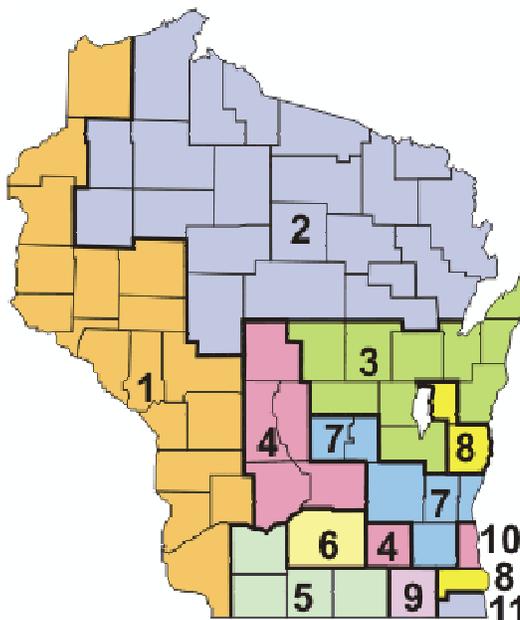
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Your current Madison office customer service representative assignments are determined alphabetically by licensed business name. A-CAQ Marie Gollon, CAR-FIQ Christine Thomas, FIR-KIP Jean Anderson, KIQ-OA Nancy Passehl, OB-SPA Julia Morter, and SPB-Z Linda Mabie.

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We're on the Web!
www.dot.state.wi.us

NEWS

Liens placed for past-due child support

The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires states to enact laws to increase the collection of past due child support. One provision of the Act mandates that liens be placed administratively against a child support payer's real and personal property when past due support is owed.



Effective August 7, 2001, Wisconsin title transactions began interfacing with the Department of Workforce Development's (DWD) Child Support Lien Docket. The Lien Docket is an electronic registry of the names of payers subject to a child support lien. If one of the vehicle owners is found in the Lien Docket, a lien in favor of DWD will be printed on the title. A notice from DWD explaining the lien will be included with the title.

Only vehicles with a Child Support Lien recorded on the certificate of title are affected. If you are taking a vehicle in trade with a Child Support Lien already listed on the title and the customer does not have a valid lien release letter, your customer must contact the agency where the court order is filed to determine the pay off amount. For additional information, contact DWD at (608) 266-9909. (WisDOT Press Release).

Application status now online

We were recently asked whether it had occurred to anyone to post in the dealer newsletter the processing times for DMV products, such as title applications. While the dealer newsletter isn't published often enough to accurately disclose processing times, this information is easily accessible on the Internet. You can go to the WisDOT Internet site and click on "weekly application status," or go to <http://www.dot.state.wi.us/dmv/status.html>.

If you renew your license plates by telephone/Internet you can expect to receive your renewal stickers 10 working days.

Continued on page 7

Airbags tampering outlawed

2001 Wisconsin Act 28 (effective November 30, 2001) prohibits a person from removing or tampering with an airbag, or concealing an absent or nonfunctional airbag. This new law continues to allow recycled (salvaged) airbags to be installed in motor vehicles.

The theft of airbags and/or replacement with counterfeit covers is a growing criminal activity in the United States. The new law provides that for each violation, a fine of not more than \$5,000, or imprisonment for not more than one year in a county jail, or both, be imposed.

The law states: Airbags, prohibited practices. (3) "No person may, either personally or through an agent, remove, disconnect, tamper with, or otherwise circumvent the operation of any airbag, except for the purpose of testing, repairing, maintaining an airbag, salvaging an undeployed airbag, disposing of a deployed airbag, or replacing a deployed airbag with a functional airbag." [s.347.475, Wis.Stats].

Recognizing a missing or counterfeit airbag during the trade appraisal is difficult, so hopefully this new law will deter participation in this dangerous crime.

County sales and use tax

Starting April 1, 2002, Grant County will collect a one-half percent (0.5%) county sales and use tax. County sales and use taxes due on vehicles purchased from Wisconsin licensed dealers are based on the county where the vehicle is kept and the delivery date. Taxes are sent directly to the Department of Revenue by the dealer.

Did you know...

Over 750 dealers and financial institutions now participate in the Automated Processing Partnership System - APPS.



Elimination of City of Sheboygan Municipal Wheel Tax



The Sheboygan wheel tax applies to automobiles and motor trucks registered at a gross weight of not more than 8,000 pounds. The tax is due at the time a vehicle is first registered and at the time of registration renewal if the vehicle is customarily kept in the city of Sheboygan. Starting January 1, 2002, the City of Sheboygan will begin a gradual elimination of their municipal wheel tax over the next four years: Beginning with 2002, the tax will decrease to \$8; beginning with 2003 the tax will decrease to \$6, beginning with 2004 the tax will decrease to \$4, beginning with 2005 the tax will decrease to \$2, and the tax will be eliminated beginning in 2006 (WisDOT News Release).

The Right Way

Disclosing “Material” history

Since 1997, Trans 139 of the Wisconsin Administrative Code has required dealers to disclose “all material history” of a motor vehicle on the Wisconsin Buyer’s Guide. This is in addition to the “Prior Use” and “Title Brands” boxes a dealer has to check off. It’s fairly simple to determine which boxes to check, but how does a dealer disclose “material history,” and just what does that include?

Disclosures of material history, prior use and title brands is limited to that which the dealer could determine using reasonable care.

In the rule, “Material” means that a reasonable person would attach importance to its existence or a seller knows or had reason to know that a buyer would regard it as important. A seller has reason to know that information is material if a buyer specifically requests the information.

“Reasonable care” is a standard that requires the dealer to provide information obtained from various sources: manufacturer and auction notices, prior owner documents, prior owner disclosures, and the dealer’s own inspection and repair records. It does not require contacting prior owners or obtaining records of previous titles unless they are necessary to clarify apparent inconsistent or questionable information. A dealer does not have to run a Carfax report either; however, if he does, he can’t ignore what is in the report.

Material history can tell a lot about any given vehicle, and it helps consumers make informed decisions. One of the biggest problems facing car buyers is the unknown history of a vehicle. While dealers have been buried with information relating to consumer protection, there hasn’t been much talk about protecting dealers. In many cases, especially when buying through wholesale transactions, dealers are placed in the role of consumer. A consumer who needs protection.

The WisDOT Dealer Section has recently received an unusually high number of complaints involving the improper disclosure of “material history” with regard to wholesale transactions. While wholesale transactions have traditionally been conducted as “buyer beware,” Wisconsin’s

“While wholesale transactions have traditionally been conducted as “buyer beware,” Wisconsin’s Administrative Code Chapter Trans 139 offers some protection for dealers in wholesale transactions.”

Administrative Code offers some protection for dealers in wholesale transactions [Trans 139.04 (8) Wholesale Disclosure Requirements. *Sellers in wholesale transactions shall make the disclosures required in s. Trans 139.04 (6)(a)1. to wholesale purchasers of motor vehicles in writing before purchase.*].

Trans 139 clearly requires wholesale transactions to include all material history. All prior use and title brands also need to be disclosed. This is usually done on the auction block ticket or

Wholesale Buyers Guide. Dealers purchasing vehicles in a wholesale setting need to be wary of many issues. When purchasing a vehicle at an auction, a dealer should watch for inconsistencies or a seller’s refusal to discuss issues regarding material history.

With many of these disclosure complaints, the first claim of the selling dealer is that vehicles are normally sold “AS IS,” and that the only protection the

purchasing dealer has is under the auction’s warranty which, in many cases, only covers the first several hours or days immediately following the purchase.

When a dealer sells a vehicle, “AS IS,” they are disclaiming all warranties

including implied warranties of merchantability and fitness for a particular purpose. However, while there may be no warranty offered, dealers are still required to disclose material information. Although the Department does not handle “dealer vs. dealer” complaints, a dealer may have cause for a civil action for failing to disclose material history. Recent court cases around the state involving dealer vs. dealer have upheld this.

Ultimately, if the material fact would cause a customer to negotiate a lower price or cause them to refrain from the purchase altogether, that fact must be disclosed.

When in doubt, disclose, disclose, disclose!!!

Tip...

Some dealers are submitting applications for DMV products with Fire Numbers, without including the name of the road. Listing the fire number only is not a useable address. Example: N7998, New London, WI 54961. Please remember to include a street name to avoid processing delays.





Dealer Ed_101

Policy Briefing

Dealer Alerts

Advertising Advice

Paperwork Pointers

Supplemental labels. A reemerging dealer practice involves placing a supplemental label on used vehicles. One label that has been observed recently advertises an individual vehicle as a Manufacturer Certified Used Vehicle. Among other things, these labels included a base price as well as used vehicle price comparisons, such as Kelly Blue Book prices, and other market value comparisons, as well as the MSRP when the vehicle was new.

The use of manufacturer suggested retail prices, wholesale or retail dealer pricing guides, or similar price guides to advertise comparative savings for used vehicles, other than demonstrators or executives, is an unfair practice and prohibited by Trans 139.03(5) of the Wisconsin Administrative Code. It is permissible to post any number of supplemental labels, as long as the Buyers Guide remains attached to a window. *However, a supplemental label cannot contain the original MSRP, even if it's not identified as such.*

“Was/Is” price advertising. Dealers already know that it is important to proceed with caution when dealing with price comparison advertising. However, one common mistake noticed recently by WisDOT investigators relates to the initial price a vehicle is advertised for. It is fairly common for a vehicle to be inspected, sit on the lot one weekend with the stated price, then, the following weekend, have the initial price crossed out with the vehicle price marked down. You need to make sure the “was” price was offered for four weeks in the past 90 days. Failure to do so violates Chapter ATCP 124 of the Wisconsin Administrative Code.

Including the date the inspection was completed on the face of the Buyer's Guide, as required by law, will help protect you from this mistake. Remember, this doesn't affect what you ask for a vehicle, only “was/is” price advertising.

Remember, a valid **Buyer Identification (BID) Card** is

required for purchasing vehicles from salvage pools, either in-person or via the Internet. If you are a licensed dealer, wholesaler or salvage dealer or their employee, you may apply for the BID card. The BID card allows you to bid on vehicles at motor vehicle salvage pools (auctions that sell used or damaged vehicles only). You may have more than one BID card, in order to buy salvage vehicles for more than one employer. However, you must submit a separate BID card application signed by each employer. Employees of dealers, wholesalers, and salvage dealers that are licensed out-of-state may also qualify for a Wisconsin BID card. Salvage pools must remember to only accept bids from a person with a valid BID card.

BID card users can buy vehicles *only* on behalf of their employer. They cannot use the BID card to buy vehicles for themselves or others. To apply for a BID card, contact the WisDOT Dealer Section at 608.266.1425 and request form MV 2651, or go online to <http://www.dot.state.wi.us/dmv/bidcard.html>.

Damage disclosure. “On any new vehicle or demonstrator or executive vehicle, any corrected damage exceeding 6% of the manufacturer's suggested retail price, as measured by **retail repair cost**, and all uncorrected damage shall be disclosed in writing to the purchaser prior to delivery”(Trans 139). WisDOT determines the retail repair cost using the repairing facility's posted shop labor rate, flat-rate manuals, etc. Dealers should use caution when reaching a repair agreement with an insurance company. The dollar figure paid by the insurance company is not necessarily the retail repair cost requiring disclosure under the 6% rule. Also, don't forget, if a customer asks whether a new vehicle has been in an accident, you must reply accurately.

Dealer Questions

Question: Your customer purchases a vehicle, and intends to sell the old vehicle. How can this customer legally operate a vehicle they are offering for sale when their metal plates have been transferred to another vehicle?

Answer: Advise the customer to purchase plates for the new vehicle and keep the existing plates on the vehicle being sold. If the plates have already been transferred to the new vehicle, you must collect a title, registration fee and temporary plate fee for the old vehicle before issuing a temporary plate. Once the old vehicle is sold, the customer can send in an application to transfer the plates to the new vehicle to take advantage of the later expiration date.

Question: Some financial institutions are requiring dealers to title stock vehicles in the dealer's name, and perfect their lien on the title. How should a dealer proceed?

Answer: If a financial institution requires you to title stock vehicles in the dealer's name, you should inform them that this is prohibited by Trans 154.13(1), except under specific circumstances, such as: all of the reassignments are full; the vehicle is salvage; the gross vehicle weight rating is more than 16,000 pounds; or the issuance of a new title is necessary to correct information. Generally, a dealer being required by a floor plan financial institution to title a vehicle in their own name must purchase regular registration plates, unless they meet one of the exceptions under Trans 154.



Dealer Alert

Use of terms such as “**invoice**,” “**cost**,” or similar terms, when advertising the price of a motor vehicle, and accessories, is an unfair practice and prohibited unless the advertisement discloses the dealer’s actual cost is less because there are, or may be, factory holdbacks, rebates, incentives, or other discounts to the dealer, if that is the case. (Trans 139.03[3])

In connection with a **lease**, **sales tax** should not be charged on credit accident, credit life or health insurance, because the charge for the insurance is separately set forth in the lease agreement given by the lessor to the lessee. And because the credit life and credit accident and health insurance is considered for the protection of the lessee. Since the credit life and credit accident and health insurance is for the protection of the lessee rather than the lessor, the insurance is not excluded as a deduction from gross receipts. Remember, even if the charge is capitalized, a customer is not subject to Wisconsin sales or use tax. (Wisconsin Tax Bulletin 124 - 2001).

Changes made to special plate fees

Starting March 1, 2002, a number of fee changes were made to the one-time issuance fee for the sequential (non-personalized) special plate types. The following plates had their issuance fee increased to \$15: Amateur Radio (AMA), Collector Special (CLS), Wisconsin National/Air National Guard (WNG), second or subsequent Ex-Prisoner of War (XPW), Civilian Group (CVG), and Military Special Group (MLG). A \$15 issuance fee will be added to the Endangered Resources sequential plates (CVG).

Sequential Higher Education Group (HEG), CVG sub-group plate types (Packers, Ducks Unlimited, Celebrate Children, Lao Veteran and Freemason) and the U.S. Veterans motorcycle plate currently require a \$15 issuance fee and will not be affected by this change.

Measure of use tax increased to \$114

Dealers are permitted to report use tax, per plate, for the use of motor vehicles assigned to certain employees and owners. Effective January 1, 2002, the amount subject to use tax was increased from \$110 to \$114 per plate per month.

For additional information, contact the Department of Revenue at (608) 266-1607.

DMV to close part-time service centers

Effective February 1, 2002, DMV closed a number of part-time customer service centers in an attempt to increase efficiencies. In response to customer demands and constituent comments to state legislators, the DMV has concluded that all stations with at least 1,000 customers per year will remain open. These sites are to be made more cost effective through alternative measures such as reducing the number of staff that support them or limiting their hours of service. The DMV has ensured that there is at least one customer service site available in each county of the state.

DMV administrator Roger Cross notes, “It’s more important than ever for the DMV to be prudent when allocating resources. We need to work smarter. At the same time, we need to be there for our customers. This is the right thing to do.” (WisDOT News Release)

Application status continued from page 4

License plates are mailed by third class mail and may take an additional two weeks to be delivered.

If you don’t receive your items by the anticipated date, you may contact the Bureau of Vehicle Services at bur-veh-services.dmv@dot.state.wi.us. Include the following information in your E-mail:

- Your name and street address
- Date you mailed your application
- Requested item (license plates, ID card, etc.)
- Any other identifiable information (vehicle identification number, etc.)

Answer—You be the DOT

(from page 2)

Binding Internet sale?

Since there was never any binding contract between the dealership and the customer, there was no obligation for the dealership to sell the used vehicle or take in the trade-in vehicle at any previously negotiated price. In this case, the customer failed to inform the dealership of several after-market items and graphics which had been added on to the vehicle. The case was closed with no action taken against the dealership.

MV-11 hint: When submitting an MV-11 to the DMV, you can reduce titling errors and delays by utilizing the DMV color list. To the right you will find the colors that the DMV is allowed to work with.

Amethyst	Chrome	Green	Multicolor	Silver
Beige	Copper	Gray	Mauve	Tan
Black	Cream	Lavender	Orange	Taupe
Blue	Dark Blue	Light Blue	Purple	Turquoise
Brown	Dark Green	Light Green	Pink	White
Bronze	Gold	Maroon	Red	Yellow
Camouflage				

Enforcement Actions 2001

Al Gilbertson, Schofield -- An Order Revoking License was issued against Gilbertson's salesperson license for odometer tampering while Gilbertson was the owner of D&A Auto, Weston, WI. Criminal charges are pending against Gilbertson contingent on Gilbertson paying restitution to the current owners of the odometer tampered vehicles.

Auto Works, Inc., Madison -- A Special Order was issued for being in possession of motor vehicle parts with knowledge that the identification numbers had been removed or altered.

Budget Auto Brokers, Turtle Lake -- An Order Suspending License for six months was issued for odometer tampering. Owner, Warren Hodge, also pleaded guilty to one count of misdemeanor odometer tampering in Barron County and was fined \$2,000 plus court costs on. Hodge also paid \$20,336 in restitution.

Checkered Flag, Inc., Muskego -- An Order Suspending License for six months was issued for odometer tampering. Owner, Josh Christiansen, paid \$18,552 in restitution.

Heiser Lincoln-Mercury, Milwaukee -- A Special Order was issued for allowing unlicensed salespersons to sell motor vehicles to retail customers.

Christopher Meyers, Milwaukee -- An Order Suspending License for six business days was issued to Meyers, General Manager at Heiser Lincoln-Mercury, for allowing unlicensed salespersons to sell motor vehicles to retail customers.

James Gresen, Milwaukee -- An Order Suspending License for 12 business days was issued to Gresen, Used Car Manager at Heiser Lincoln-Mercury, for allowing unlicensed salespersons to sell motor vehicles to retail customers.

Lubna Z Company, Milwaukee -- A Special Order was issued for knowingly making a false statement in an application for certificate of title. Owner, Ibrahim Hasan, pleaded guilty to one count of acting as a motor vehicle retail dealer in Milwaukee County and was fined \$500 plus court costs.

Mann Motors, Inc., Milwaukee -- An Order Suspending License for 28 calendar days was issued for failing to submit title on retail sales to DMV in 7 business days.

Sam's Auto Sales, Wausau -- An Order Suspending License for six months was issued for failure to complete and display Wisconsin Buyers Guides, falsely stating date of sale on application for title, failure to submit title in 7 business days, failure to provide buyer with written purchase contract, and failure to provide buyer with written installment contract.

Lorenzo Servin, Beloit -- An unlicensed dealer who rolled back odometers on approximately 150 cars, was sentenced to 16 months in Federal prison, 1 year supervised release, ordered to pay \$74,158 in restitution and ordered to refrain from selling cars while on supervised release. Judge Crabb said she recognized the victims loss as much more than purchasing a spun car and that many victims told her of the amount they spent in needed repairs after the purchase, which was the reason for the maximum time sentence. Lorenzo's brother, Jose, was to be sentenced September 28 and was facing the same sentence. However, Jose died September 4 in a mysterious arson fire at his home.

Three G Auto Sales, Madison -- An Order Suspending License for three days was issued for allowing unlicensed salespeople to sell motor vehicles to retail customers.

Wheel Exchange, Glendale -- An Order Suspending License for six months was issued for odometer tampering. Owner, Curt Miller, pleaded guilty to two counts of misdemeanor tampering in Milwaukee County and was fined \$500 plus court costs. Miller also paid \$20,315 in restitution.

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