



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

*"Nothing astonishes men so much as common sense and plain dealing."*

R.W. Emerson

**Winter  
2012**

## ***Wisconsin Vehicle Emissions Inspection Program***

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Vehicle emissions testing is a primary component of the strategy being utilized to reduce air pollution in southeastern Wisconsin. This area is one of more than 40 in the country with ground-level ozone levels that exceed federal air quality standards. Excessive air pollution is a public health hazard. Geographically, as part of the south Lake Michigan air basin, southeastern Wisconsin is one of the worst areas in the country for ozone pollution.

Motor vehicles produce approximately one-third of southeast Wisconsin's VOC and NOx emissions that contribute to the formation of ozone, and more than half of its carbon monoxide emissions. High ground-level ozone concentrations contribute to upper respiratory problems and can damage crops and forests.

### ***Motor Vehicle Emissions Reductions Improve Air Quality***

Reducing motor vehicle emissions plays a large role in improving

regional air quality. Along with reformulated gasoline use, the Wisconsin Vehicle Inspection Program (WIVIP) is Wisconsin's most significant vehicle emissions reduction program, and one that contributes to improved air quality in the entire upper Midwest.

The Wisconsin Department of Natural Resources (DNR) estimates that the program achieved the following reductions in on-road motor vehicle emissions during 2011:

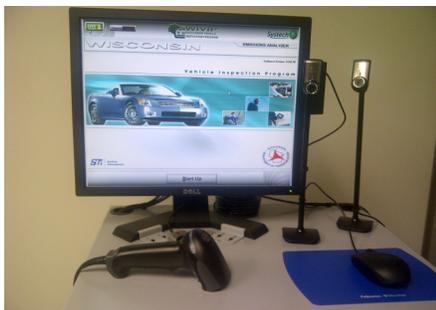
- Volatile organic compounds (VOC) emissions reduced by 2.19 tons per summer weekday, or 7.1%
- Oxides of nitrogen (NOx) emissions reduced by 3.81 tons per summer weekday, or 5.0%
- Carbon monoxide (CO) emissions reduced by 29.54 tons per summer weekday, or 8.4%

### ***History of WIVIP***

The Wisconsin Department of Transportation (WisDOT)  
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implemented the WIVIP in April 1984 in response to mandates from the federal Clean Air Act; its focus is to reduce emissions that form ground-level ozone. Motor vehicles, industries, and smaller sources such as lawn mowers, power boats, paints, solvents and other consumer products emit ozone precursors. Areas exceeding federal air quality standards – established under the Clean Air Act – are designated as nonattainment and required to reduce emissions. Each year, emissions of over 600,000 cars and light-duty trucks in seven southeastern Wisconsin counties are tested. The program covers more than 2,500 square miles in Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha counties.



This is a key part of the state plan to reduce ground-level ozone in nonattainment areas and has been a main factor at helping previous nonattainment areas reach attainment (Milwaukee, Racine, Waukesha, Ozaukee and Washington counties).

For more information:

<http://dnr.wi.gov/topic/airquality/mobile.html>.

**Testable Fleet**

Testing is required at change of ownership, for a model year (MY) greater than five years old, and at time of registration renewal (every two years) for vehicles MY 1996 and newer.

**Exemption of Pre-1996 Model Year Vehicles**

The testing requirement was eliminated for MY 1968 – 1995 vehicles in 2008. Vehicles in this category were being replaced by newer MY vehicles equipped with less intrusive technology. DNR vehicle emissions modeling has indicated that only testing newer vehicles would have negligible impact on Wisconsin’s air quality.

To offset the loss of emission reductions from MY 1968 to 1995, the state began testing MY 2007 and newer diesel powered vehicles, and heavier duty

trucks with a gross vehicle weight rating (GVWR) of up to 14,000 pounds.

**Program Changes in 2012**

In July 2012, the inspection network increased from nine centralized stations (now closed) to 200 decentralized Private Inspection Facilities (PIFs), which include: repair shops, oil change shops, and dealerships. There are also five Technical Assistance Centers (TAC). The contract with Systech International, LLC, of Murray, Utah will reduce costs, and provide greater options and convenience for customers.

**Private Inspection Facilities (PIF)**

- Private Inspection Facilities are selected by Systech based on level of technical expertise, experience, and location.
- Vehicle inspectors undergo comprehensive training and must pass an exam before they can begin to inspect vehicles.
- PIFs may have extended hours, and test results are transmitted in real-time. Locations can be found at: <http://www.wisconsinvip.org/WivipPublic/Pages/TestFacilities.aspx>.



Customers may call the facilities for information about hours and appointments. Emissions inspections may be conducted in conjunction with

other services, such as an oil change. Most of the facilities are currently able to process registrations as well.

Testing procedures and the subject testable fleet are the same as before. Customers continue to receive up to three emissions inspections within the vehicle’s test cycle at no charge; one initial test and up to two free retests, if necessary.

For more information: <http://www.wisconsinvip.org>, or 1-866-OB-D-TEST (1-866-623-8378).

## What's News.... and Notes



### Finance Personnel Licensed as Salespeople

Occasionally, the Dealer and Agent Section comes across a situation where dealership sales floor employees have a salesperson license but Financing and Insurance (F&I) employees do not. The belief is F&I employees aren't really selling the car so they don't need a license. This is incorrect and could land the dealer in a bit of trouble. The definition of a motor vehicle salesperson in Wisconsin State Statute §218.0101(24) includes "...or other person who is employed by a motor vehicle dealer for the purpose of selling or approving retail sales...." Furthermore, Wisconsin Trans Code 138.02(10) defines selling as "...to transfer or offer to transfer ownership of a motor vehicle for compensation...." F&I personnel fall into these categories and therefore *are required* to be licensed as a motor vehicle salesperson by the department.

### New Wisconsin Crime Alert Network Helps Auto/Truck Dealers

The Wisconsin Department of Justice has a program which can help auto/truck dealers in Wisconsin prevent and detect crime that targets the auto/truck industry. The Wisconsin Crime Alert Network (WCAN) in partnership with local, state, and federal law enforcement agencies, allows law enforcement agencies to directly and instantaneously send out alerts via email, cell phone text, and fax. Alerts are sent to businesses and individuals in Wisconsin, targeting recipients based on location and business type. Wisconsin is only the second state in the nation with a state-wide crime alert system. Currently, over 3,000 Wisconsin law enforcement officers are using WCAN.

Auto/truck dealers play a key role in WCAN and a special crime alert business category for "auto/vehicle" has been created to address the needs of the auto/truck industry. Numerous WCAN alerts have been sent out recently to auto/truck dealers including many regarding the theft of catalytic converters from cars and trucks at dealerships.

Auto/truck dealers are invited to join WCAN. It is funded through subscription fees, just \$12 per year for each county in which you are located. In addition to receiving alerts, WCAN members may participate in free monthly webinars with topics including "Proprietary Espionage" and "What to Do if Your Customer Information is Breached?" Subscribe online at [www.wisconsincrimealert.gov](http://www.wisconsincrimealert.gov). Contact Joe Libowsky, WCAN Coordinator, at 608-240-2597 or email [info@wisconsincrimealert.gov](mailto:info@wisconsincrimealert.gov) if you have questions.

### Performance Plus Award

DMV's Bureau of Vehicle Services presented Kim McCluskey with a Performance Plus Award for July 2012. Kim is a consumer protection investigator 3 in the Dealer and Agent Section.

Nominated by Michael Domke for her dedication and hard work in planning and coordinating the National and Midwest Odometer and Title Fraud Associations' annual conference in Green Bay, her commitment and willingness to go the extra mile made it a resounding success. Kim's efforts showcased the state of Wisconsin and DMV so well that several requests have already been made to host the conference in Wisconsin again.

The Performance Plus Award is presented to individuals or teams who perform their duties in an exceptional manner, above and beyond what is normally required, generating positive results for the bureau.



## Prize Notice Complaints

Is this a legal promotion in Wisconsin?

**How many balloons  
are in this minivan?**



**STOP IN AT THE WORLD-O-VANS SHOWROOM  
AND MAKE YOUR GUESS. THE ENTRY WITH THE  
CORRECT NUMBER OF BALLOONS WINS THE VAN!**

(If more than one correct entry, a winner will be drawn at random from the correct entries.)

### Contests and sales promotions

Wisconsin law prohibits merchants from engaging in lotteries. Law defines a lottery as having three factors:

1. A *prize*, that is
2. Determined by *chance*, and has
3. *Consideration* (something of value that the contestant provides in order to become eligible for the prize).

In the case described above, there is a prize (the van), the outcome is determined by chance (contestants are guessing a number and there will be a random drawing if more than one person guesses correctly), but there is no consideration. Contestants don't have to give anything of value in order to participate. They just need to stop in and guess the number. The minivan/balloon contest doesn't meet all three criteria for a lottery, so it *is* legal in Wisconsin.

Consideration is the most difficult part of

determining whether a contest is an illegal lottery. "Something of value" doesn't just mean money. It also includes any required purchase or any required actions on the part of the contestant. (Requiring a test drive before entering the contest would be consideration.) The following methods of entering a contest are *not* consideration:

- Postage for mailing in an entry form
- Price of gas used to visit the contest location
- Being required to visit the store to enter, as long as no purchase is required.

Other examples of legal contests include direct mail promotions where contestants are mailed a key to bring in to the dealership to try in the ignition (or door) of the prize vehicle. Contestants might also be mailed a card with a number printed on it that they bring in to see if it matches a posted prize-winning number.

### Firms will run promotions

There are companies who, for a fee, will run these kinds of direct mail promotions for you. Before you sign up with one, it's a good idea to take some precautions:

- ◆ Research all companies involved in the promotion. Ask for examples of past promotions they were involved in.
- ◆ Get references. Talk to other dealers who've participated in promotions run by the companies you're considering.
- ◆ Make sure the contest is legal. Use the prize/chance/consideration test to be sure you're not running an illegal lottery.

It's also a good idea to have a plan of action developed in case something goes wrong with the promotion. For example, what if more than one winning key turns up? This has happened in Wisconsin and in other states. A quick and positive response can prevent bad publicity and angry customers.

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**Sign up to receive Plain Dealing by email at:**

<http://www.dot.wisconsin.gov/business/dealers/listserv.htm>

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### ***These contests are illegal***

- Bingo Events and Raffles—only nonprofit organizations are eligible to receive the license needed to conduct these events.
- Casino Nights—games where participants make a payment or donation in order to gamble with play money and then use that play money to bid on prizes. These are considered illegal lotteries no matter who conducts them.

### ***Winner doesn't pay sales tax***

If you award a vehicle as a prize, you, as the donor of the prize, must pay any sales or use taxes due. The prize winner is not subject to sales tax. The winner could be expected to pay title and registration fees. In completing the MV11 for the winner, include the title fee, registration fee (or plate number to transfer) and indicate tax exempt status #9 (other) and write in "prize" as the explanation.

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## ***Dealers Mailing Title Applications to the DMV***

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When dealers are processing title applications, all completed title work needs to be mailed to Wisconsin DMV for imaging. This material needs to be imaged properly to maintain data integrity, comply with WisDOT program standards and avoid unnecessary contacts from DMV. To properly prepare your title work for mailing:

1. Begin with your application: MV11, MV1, MV12 or E-MV Receipt

Ensure that the hand written or stamped title number is located in the upper right-hand corner on the application. Applications should be in order beginning with the first title number of the day.

2. Behind the application, place the MCO, WI title or out of state title.
3. Place any required supporting documents next, ensuring that the top of each document is even.
4. Finish the entire day's worth of transactions with a bundle report.

If you have processed more than one application for that day, continue to build your bundle with the next application. Include any **reset sheets** from transactions you reset during the day. Even if you did not reprocess the application, your reset form replaces the title number and should be in the bundle in the order it was processed.

Remove all staples and/or paper clips before mailing.

Do not enclose notes, fees or anything besides completed applications. Title work is imaged upon entry to the building; Dealer and Agent Section staff does not receive completed bundles.

NEVER send incomplete work with your bundle of completed applications.

Once you have completed your applications for the day and organized using the above instructions, mail your entire bundle to DMV. One day's bundle goes into a mailing envelope and each day's work is required to be sent separately. Enter the **last** title number from that day's title transactions on the yellow mailing label and place on the outside of the envelope. Mail the following business day after the applications have been processed and completed.

When mailing the applications (bundle), please send the envelope to:

DMV Correspondence Processing  
Wisconsin Department of Transportation  
PO Box 7911  
Madison, WI 53707-7911

## ***Service Fee Review and Reminder***

Wisconsin Transportation Code 139.05(8)(a) allows dealers to charge a service fee for completing any legally required sales-related or lease-related vehicle inspections and forms. The service fee definition must be reasonable and reflect actual dealer costs to comply with state and federal consumer protection laws, verifications and public safety.

At the time the fee was implemented, the Division of Motor Vehicles (DMV) published a sample list of items that may be included in the service charge. The list was broad, and interpretations of those items have evolved. As long as the fee was reasonable and could be verified upon request, DMV allowed industry to establish the amount of their service fee. Justification for the fee charged must be limited to services actually provided and required by government regulation.

Over time operating costs increase and the cost incurred to comply with government regulations increases. This is the reason a set service fee was not established. Other ancillary factors such as the year of vehicle, type of vehicle, increased form costs, etc. may contribute to an increased fee and the DMV takes those factors into account when reviewing whether a fee is reasonable.

Dealers are encouraged to review their service fee charges and ensure they meet the requirements of the law. When a dealer generates complaints or raises suspicion regarding service fees, DMV will investigate and follow standard enforcement procedures.

Send questions regarding dealership service fees to the DMV Dealer and Agent Section at (608) 267-2033, or email [MichaelL.Domke@dot.wi.us](mailto:MichaelL.Domke@dot.wi.us).



### **Need to order the MV11 form ?**

#### **Contact:**

**GMA Printing**

(800) 747-4647

[www.gmaprinting.com](http://www.gmaprinting.com)

**WATDASI Forms**

(800) 236-7672

[www.watdasi.com](http://www.watdasi.com)

**Reynolds & Reynolds**

(800) 344-0996

[www.reyrey.com](http://www.reyrey.com)

**ADAMM**

(888) 225-9206

[www.adamm.com](http://www.adamm.com)

### ***Contributors' Corner***

Many thanks to those who  
made this issue of  
**PLAIN DEALING**  
possible...

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<b>Jan Keyser</b>	<b>Vikki VanDeventer</b>
<b>Joseph Knight</b>	<b>Brandon Wilbik</b>

## ***DOT Criminal Actions***

**Aliu, Nevrus - Racine** - Charged with operating as an unlicensed salvage dealer as well as failure to maintain a log book. Aliu pled guilty to operating as an unlicensed salvage dealer and was fined \$500.00 plus court costs. He was found guilty at trial of 62 counts of failure to maintain a log book and was fined \$5408.00. In addition, he was ordered by Racine Municipal Court to pay \$174,000 for storing 63 nuisance vehicles, storage of leaking oil barrels and operating a junkyard without a license.

**Beno, Justin - DePere** - Pled No Contest to two counts of Removing or Possessing manufacturer identification labels and one count of Attempted Theft - False Representation. The remaining two charges were dismissed but read in for sentencing. Beno agreed to surrender the two vehicles (combined value of \$150,000) and pay storage fees totaling \$5,718.10.

**Booker, Eric - Milwaukee** - Pled guilty to Theft of Movable Property; sentenced to four years - one year in prison and three years extended supervision. \$65,786.98 restitution was also ordered jointly and severally with co-defendants (Ciriacks, Hill, Hoskin and Louis).

**Ciriacks, Jeffrey - Saukville** - Pled guilty to Theft of Movable Property; sentenced to six years - three years in prison and three years extended supervision. The sentence stayed and defendant ordered to serve nine months in county jail and placed on five years probation and 75 hours of community service. \$60,587.98 restitution was also ordered jointly and severally with co-defendants (Booker, Hill, Hoskin and Louis).

**Grajek, John - Lake Geneva** - Pled no contest to Identity Theft and was found guilty. Forfeiture of \$152.40 was ordered and sentenced to two years probation.

**Hill, Quinton - Milwaukee** - Pled guilty to Theft of Movable Property; sentenced to four years - two years in prison and two years extended supervision. The sentence stayed and defendant placed on four years probation. \$65,787.98 restitution was also ordered jointly and severally with co-defendants (Booker, Ciriacks, Hoskin and Louis).

**Hoskin, Chavies - Milwaukee** - Pled guilty to Theft of Movable Property; sentenced to four years - one year in prison and three years extended supervision. \$65,786.98 restitution was also ordered jointly and severally with co-defendants (Booker, Ciriacks, Hill and Louis).

**Louis, Pierre - Milwaukee** - Pled guilty to Theft of Movable Property; sentenced to four years - two years in prison and two years extended supervision. Sentence stayed and defendant ordered to serve six months in county jail and placed on four years probation. Restitution was also ordered.

## ***DOT Citations***

**Bartus, Simon (Sam) - Wausau** - Cited for operating as an unlicensed dealer and failure to transfer title.

**Don's Auto Sales of Wautoma LLC - Wautoma** - Two citations issued for Failure to Transfer Title within Seven Days. Default judgment entered; \$401.00 total forfeiture.

**Ikes Custom Car Care - Milwaukee** - Alicia McCovery, owner, issued 11 citations for Failure to Transfer Title within Seven Days. Default judgment entered and \$1,144.00 forfeiture ordered.

**Kaempf, Todd - Green Bay** - Two citations issued for Operating as an Unlicensed Dealer and Failure to Transfer Title.

**Lake Wissota Auto Sales - Eau Claire** - Travis Tompkins, owner, pled no contest to Failure to Transfer Title within Seven Days and was found guilty; \$200.50 forfeiture ordered.

**Moore Automotive dba One Roof - Milwaukee** - Glen Garner, owner, charged with 12 counts of Failure to Transfer Title. Mr. Garner pled No Contest to all charges and was found guilty; total due \$1,140.00. Failure to pay will result in two-year suspension of driver's license.

## ***DOT Enforcement Actions***

**Badger Auto Plus - Wausau** - Special Order issued. The dealership stipulates to the following violations: failure to include a warning for conditions deemed not legal, charging a service fee for a recreational vehicle, advertising vehicles that have not been inspected, displaying non-inspected vehicles along with vehicles offered for sale, failure to transfer title, failure to provide records and increasing the advertised price of a vehicle.

**Correa, Victor - Chicago, IL** - Buyer's License denied. The dealership Mr. Correa applied for a license under (Diamante Auto Sales in Hammond, IN) has a history of allowing their buyers to sell to retail customers in WI and IL.

**Kingsby, Derrick - Milwaukee** - Buyer's License application denied. An investigation found that Kingsby was operating as an unlicensed dealer and curb stoning in Milwaukee.

**Mercuri, Elvio - Chicago, IL** - Buyer's License denied. The dealership Mr. Mercuri applied for a license under (Diamante Auto Sales in Hammond, IN) has a history of allowing their buyers to sell to retail customers in WI and IL.

**Morales, Juan - Chicago, IL** - Buyer's License cancelled due to Fraudulent Application. The dealership Mr. Morales applied for a license under (Auto Max Sales, Inc. in Dyer, IN) was fraudulent as well.

**Meyers, Michael - Chicago, IL** - Buyer's License denied. The dealership Mr. Meyers applied for a license under (Diamante Auto Sales in Hammond, IN) has a history of allowing their buyers to sell to retail customers in WI and IL.

**Sims, Jimmie - Milwaukee** - Buyer's License application denied. Mr. Sims was found to be gaining access to auctions using an IN dealer license, selling vehicles to WI consumers before obtaining a WI dealer license and using a fraudulent dealership name (S S & W Auto Sales). He also failed to disclose criminal convictions on his application.

**Zahn, Jeffery - Wausau** - Special Order issued. Mr. Zahn stipulates to the following violations: accepting a down payment without executing a purchase contract, neglecting to disclose material history and general condition properly on the buyer's guide, selling a vehicle before it has been inspected, having a consumer sign an incomplete motor vehicle purchase contract, failure to provide a consumer with a copy of the purchase contract, retail installment contract and warranty documents and making changes to dealer copies of the purchase contract, but not to consumer copies.