

Plain Dealing

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

Vol. 2, No. 3

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

R. W. Emerson

Take some extra time to enjoy that warm spring air — your life just got easier! No more trips to your local DMV Customer Service Center or law enforcement agency to verify vehicle identification numbers (VINs) on out-of-state vehicles — now you can do it yourself! See the front page article for details.

Be sure to read this issue's section “The Right Way” on advertising. Test your knowledge of advertising regulations by entering our first contest. Details are on page 2.

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Verify your own Vehicle Identification Numbers

Have you ever had a hard time finding someone, conveniently located, who can verify the vehicle identification number (VIN) on an out-of-state vehicle? Most dealers would probably answer — “Yes!”

A new rule (effective April 1, 1992) designates who, in addition to law enforcement personnel, may perform VIN inspections. Chapter Trans 155 of the Wisconsin Administrative Code permits the following people to perform VIN inspections:

- Authorized agents or employees of a law enforcement agency,
- Authorized agents or employees of any state department of transportation,
- An authorized employee or agent of a licensed motor vehicle dealer, when the vehicle is in the possession of **and** is offered for sale by the dealer,
- An authorized employee or agent of a financial institution which is the lienholder on the vehicle,
- A registered owner of the vehicle, as shown on the title or registration, when ownership of the vehicle has not changed within 90 days.

How to perform the VIN inspection — the person certifying the VIN:

1. looks at the VIN plate on the vehicle.
2. copies the number from the vehicle onto the application for title/registration (section F on form MV11 or section D on form MV1).
3. compares the number on the vehicle to the number shown on the certificate of title for the vehicle.
4. writes his or her employer's business name in the space marked “Vehicle Inspector's Employing Agency Name”.
5. **prints and signs** his or her name in the space marked “Vehicle Inspector's Signature.”

Don't sign the VIN certification if:

- The VIN plate doesn't match the numbers on the title, **OR**
- The VIN plate or title has obviously been altered.

The vehicle may have been stolen or there may simply have been a clerical error when the title was issued. Call the DMV Dealer Hotline at (608) 267-3646 for help.

The MV11 and MV1 application for title/registration forms are being revised to provide separate spaces for the printed name of the VIN inspector, the printed name of the inspector's employer and the inspector's signature. Instructions and information on who may perform VIN inspections will also be contained on the revised forms. You may continue to use your current supply of application forms by following steps 4 and 5 in the procedure outlined above.

You won't need to report your list of authorized VIN inspectors to us. However, it's a good idea for you to establish some internal guidelines for the people you authorize.

The Right Way

Advertising

Contest:
How many errors can you spot in this ad?

Final Clearance!!
USA Motors Program Cars - Only \$8995*

Save \$3000!!
(OFF THE PRICE OF THIS SAME MODEL, NEW)



FREE
Air
Conditioning!

HURRY LIMITED TIME OFFER!

Wisconsin's Largest Program Car Dealer -
Carefree Cars, Inc.
123 Funto Drive
Bargainville, WI
(608)555-5555
TAX, TITLE, REGISTRATION AND RUSTPROOFING EXTRA.

"YOUR  TO HAPPY MOTORING!"

To enter this contest, write down the number of errors, your name, dealership, business address and phone, and mail or FAX by June 29, 1992, to: Ad Contest, Dealer Section, PO Box 7909, Madison, WI 53707-7909, FAX (608) 267-0323. All correct answers will be entered in a drawing for a copy of our new video and guidebook, "The Right Way." Drawing will be held June 30, 1992 — the winner will be announced in the next issue of "Plain Dealing."

To sell cars you need to get customers to come to your dealership. Advertising is an important part of attracting those customers. It's also one of the ways you can get in trouble selling cars.

A variety of Wisconsin's statutes and rules cover advertising. Several state agencies and the Federal Trade Commission enforce advertising regulations. The maze of regulations is full of "don'ts" — but if you remember just one guiding principle of advertising rules, it is: **don't make any "untrue, deceptive or misleading" statements.**

Our number one problem with dealer advertising continues to be the use of the term "program cars" to describe former rental cars. This misleads your customers. "Program car" suggests that it was used for a special purpose — like a factory executive car — not one that was rented to the public.

The right way to use the term "program car" is to include the word "rental" every time the word "program" appears in your ad.


Problems with the proper disclosure when using the word "invoice" also continue to crop up. Remember, *the right way* to advertise invoice prices includes this disclosure:


The dealer's actual cost is less because there are, or may be, factory holdbacks, rebates, incentives or other discounts to the dealer.

The invoice price disclosure must be made *exactly* as stated in Trans 139.03(3)(b)— no changes in the wording are permitted.

We are sometimes asked whether dealerships with multiple locations under the same ownership may include more than one location in an ad. Yes, dealerships sharing the same ownership may list more than one location in an ad if the ad clearly shows which franchises are available at each location. The example below gives you an idea how this could be done.

Mega Motors, Inc.

Where you get more  for your 

| | | |
|--|--|--|
| <p>Mega Motors North 1234 Highway 345 Outskirt Junction 555-5555 Delorean Studebaker Rambler</p> |  <p>"Hi" Energy <small>Our Salesperson of the month</small></p> | <p>Mega Motors East 101 Main Street Pleasantville 555-6666 Packard Cord Auburn</p> |
|--|--|--|

See "Hi" for all your transportation needs!

This ad also shows that you may feature a salesperson who is licensed to work at more than one location under the same ownership. The same standard applies — each location lists the makes it sells.


Improper disclosure of consumer lease terms is another major advertising problem. *The right way* to advertise consumer leases is to remember that using **any** of these "triggering" terms means that **all** required disclosures must be made:

- The amount of any payment,
- The number of required payments, or
- A statement that any or no down payment or other payment is required at the beginning of the lease.

The required disclosures are: (Remember to make all 5)

1. That the transaction is a lease,
2. The total amount of any payment required at the beginning of the lease (or a statement that none is required),
3. The number, amounts, due date, and total of payments under the lease,
4. A statement of whether the consumer/lessee has the option to buy the vehicle and at what price,
5. A statement of the amount of any liabilities the lessee may have at the end of the lease.

The answer to last issue's "food for thought" question on disclosure is: Yes, you should disclose the oil use - unless you fixed the problem before offering the car for sale.

 Turn to page 6 for more information on disclosure.

News in Brief

Mandatory bonding takes effect

Because of law changes passed last year which take effect July 1, 1992, motor vehicle and motorcycle dealers will need to file a \$25,000 surety bond with their next dealer license renewal. Look at the expiration date on your license to see when this will affect you.

We recently sent all motor vehicle and motorcycle dealers information packets containing a question and answer briefing paper, a blank bond form and a list of companies that are interested in accepting applications for dealer bonds. We want you to have this information well in advance so you'll be prepared to send a bond in with your renewal application. We won't be able to renew your license without a bond.

A surety bond can be written by any company licensed to sell casualty insurance in Wisconsin. You may want to talk to the insurance agent who handles the rest of your business insurance first. Or, consult the list of bonding companies included in your information packet.

Insurance companies set their own standards on what they require in order to approve bond applications. For example, you may need to provide detailed financial statements, or meet a minimum level of liquid assets or net worth. Different companies may have different requirements, they may also have a variety of prices (the annual premium). As with most things, it might be worth your time to shop around.

If you have both a motor vehicle and a motorcycle dealer license and both are under the same ownership at the same location, one bond will cover both licenses. Otherwise, you'll need a separate bond for each of your separately licensed locations.

Your license renewal packet will be mailed about six weeks before your expiration date. If you didn't receive

a bond information packet, or have questions about the information, please contact our bond coordinator, Vikki VanDeventer, at (608) 266-0965.

Two counties add 1/2% sales and use tax

Sauk and Juneau Counties are collecting the 1/2% county sales and use tax as of April 1, 1992. You must collect this tax when you sell a vehicle that is "customarily kept" in a county which has enacted the tax. Vehicles "customarily kept" in these counties are subject to the tax even if they are purchased in a county that hasn't enacted the tax.

This tax is collected in addition to the 5% state sales tax. It is turned in to the Department of Revenue along with the state sales tax money you collect. If a vehicle is exempt from the 5% state sales tax, it is also exempt from the 1/2% county sales and use tax.

Law change allows double-bottom agricultural trailer combinations

Motor trucks may now tow two new trailers or semi-trailers to be used for transporting farm products or livestock without a special permit if:

1. The trailers are being delivered from dealer to dealer, or manufacturer to dealer,
 2. The motor truck is no more than 25 feet long,
- AND**
3. Each trailer is no more than 28 feet 6 inches long.

(Note — the frame extension isn't included in determining the length.)

Dealer Alert

Report lost plates to us in writing. If you want to replace them, include \$2 per plate with your notice. If you find any plates that were reported lost or stolen — destroy them. Don't use these plates. We notify law enforcement agencies of lost plates and you may be stopped and ticketed if lost or stolen plates are seen in use.

A special **hotline for dealers** was installed in the Registration Information Unit last fall. If you have questions about titling, registration or the Truth in Mileage Act, avoid long waits on hold and call the **Dealer Hotline: (608) 267-3646**. Share this number with your office staff and title clerks to save their time, too.

If you hire a salesperson who had a valid license at another dealership, be sure to submit a **transfer application**. Indicate the dealer name and license number of the previous employer and check the box marked "transfer." No fee is required. The salesperson isn't legally licensed to sell for you until you've sent in his or her license application.

Remember, if you have a **type 4 salvage dealer ("scavenger")** license, you are only permitted to haul vehicles to a shredder or licensed salvage dealer. You aren't allowed to sell parts or vehicles to the public.

Policy Briefings

“Creative Financing”

Suppose you have a customer eager to buy a car, but you're having a hard time getting financing approved. Is it acceptable to inflate the selling price so you can also increase the trade-in allowance and make it appear that the customer has more equity in the vehicle? No, it's not acceptable, and the problems associated with this practice can land you in serious trouble.

The problems:

- ⇒ Including an overallowance in the trade-in can backfire if the deal falls through. You would have to refund the inflated allowance if the trade-in could not be returned to the customer.
- ⇒ Inflating the purchase price involves making false statements on the purchase contract, the application for title and the retail installment contract (if you are arranging the financing).
- ⇒ Some banks have sued dealers when customers defaulted on their loans and the banks discovered the resale value of the vehicle wasn't enough to cover the amount owed.
- ⇒ Defrauding the bank that accepts the loan may be grounds for revoking, suspending or denying your dealer license.
- ⇒ Your advertising may be false and misleading if you're not selling cars at their advertised prices—or if you're selling cars above the used vehicle disclosure label asking price without extra value being added to the car (new tires or stereo, for example).

Of course, it also isn't acceptable to draw up two purchase contracts or two applications for title — one for the customer and DMV showing actual values, and one for financing showing inflated values.

Our advice:

Don't get involved in this activity. Your license could be in jeopardy, you could be fined and the bank may have civil recourse to force you to repurchase the contract and recover damages.

Posting dealer business hours

All motor vehicle dealers, motor vehicle wholesalers, and motor vehicle wholesale auction dealers must post the specific days of the week and hours of the day when they are available at their place of business.

Posting a sign saying “By Appointment” isn't enough to meet the business hours sign requirement of the Wisconsin Administrative Code Chapter Trans 138.06(2). We're not requiring a minimum number of hours, just that you are specific about the hours you choose to be open. Both your customers and our staff need to know when they can get in touch with you.

Demonstrator plate use by boat dealers

Boat dealers may use a demonstrator plate to operate a trailer loaded with a boat if:

1. both the boat and trailer are owned and offered for sale by the dealer, **and**
2. operation involves delivery to or from a prospective purchaser.

We've interpreted this to allow using a demonstrator plate to take both a boat and trailer to trade shows.

Empty trailers may be operated using trailer dealer plates. In order to qualify for demonstrator plates, you must first obtain trailer dealer plates. Annual cost of the first two trailer dealer plates is \$75. Additional plates are available for \$5 each. The annual cost of trailer demonstrator plates is \$10 each.

Some special rules apply to the use of demonstrator plates. For complete details and application forms, contact Dealer Section's Business Licensing Unit at (608) 266-1425.

Salvage dealer numbering system

Salvage dealer license numbers indicate the type of salvage business the license is granted for. The chart below explains the system.

| Type | Numbers | Facilities |
|--------|-----------------|--|
| Type 1 | SL1 – SL699 | Office and yard. May dismantle, buy and sell parts. |
| Type 2 | SL700 – SL899 | All business conducted within a building. No yard. May dismantle, buy and sell parts. |
| Type 3 | SL900 – SL999 | Scrap metal recycling (shredder). |
| Type 4 | SL1000 – SL1200 | “Scavenger” May pick up vehicles and deliver to shredder or other salvage dealer (type 1 or 2). |

If you have a license number that doesn't fit your business facilities or activities, please contact the Business Licensing Unit at (608) 266-1425.

Customer Focus

Customers comment on Dealer Section service

One of our top goals here at the Dealer Section is to continually improve service to our customers. In order to do that, we need to ask them how we're doing.

For the past six months, we've asked consumers to rate our service by filling out a brief comment card. We send a card to each consumer who files a complaint with us when the case is completed.

Consumers are asked to rate us in the areas of:

- How clearly we explained the laws or policies that applied to their situation,
- How clearly we explained options available to them,
- Whether we handled the complaint in a timely manner,
- Whether we treated them in a respectful and professional manner, and
- Whether they are satisfied with our efforts to resolve the complaint.

About 30% of the consumers who received cards responded. Of those, over 70% felt they were treated fairly and professionally, understood our explanations and were satisfied with our efforts to resolve their complaints.

Good Review for *Plain Dealing*

A Wisconsin motorcycle dealer called us after receiving the last issue of *Plain Dealing* to let us know he liked it. His experience has been that government agencies often “slap hands” for doing something wrong instead of explaining laws and rules like *Plain Dealing* does. He found the newsletter to be “excellent and invaluable.” We appreciate the kind words and welcome all your comments and suggestions.

Corrections/clarifications

Lessee's option to purchase

Our last issue's cover story explained some of the dealer license requirement exemptions for rental and leasing companies. We got several questions about the need for a used vehicle disclosure label when selling a leased vehicle to the person who leased it.

The key is that the lessee (or lessee's agent and driver) is buying the vehicle. If that is the case, a signed “statement of fact” from the purchaser may be kept on file for four years instead of a used vehicle disclosure label. This is true even when, for example, the lessor is GMAC and the sale to the lessee is being handled by one of GM's franchised dealers.

Dealer plate use

A question on dealer plate use came in from one of our Madison-area dealers. When a vehicle is owned by a dealership but has *not yet been inspected* and conditioned for resale, can a dealer plate be used on it?

Yes, but *only* for transit to the dealership and for driving the vehicle while it is being conditioned for resale. For example, dealer plates may be used when operating between:

- Point of wholesale or point of purchase and the dealer's licensed place of business,
- Dealer's licensed place of business and other locations where the vehicle will be prepared for sale (such as a repair facility or detailer).

A “Not Inspected for Sale” sticker must be displayed on the vehicle when operating it before it's been inspected and offered for sale.

Of course, dealers are permitted to use a dealer plates on used vehicles they own and are offering for sale—but only after the inspection is done and the used vehicle disclosure label is displayed.

Paperwork Pointers

📎 **Out-of-state dealers** may no longer obtain Wisconsin titles in the name of their dealership. The *only* exception to this policy is if a security interest is being perfected. Out-of-state dealers continue to have the following options open to them:

1. Display a valid out-of-state dealer plate.
2. Obtain and display Wisconsin temporary plates.
3. Obtain a “no-Wisconsin-title” registration.

Residents of other states who are not dealers may continue to apply for Wisconsin titles if they are also applying for Wisconsin registration (not temporary plates) or to perfect a security interest in the vehicle.

📎 When a **lease customer** wishes to exercise his or her option to purchase, a licensed salesperson must complete a motor vehicle purchase contract.

📎 When applying for title/registration for your customers, you have the choice of using **either the MV1 or the MV11 form**. If you have questions about completing either form, call the Registration Information Unit's Dealer Hotline at (608) 267-3646.

📎 Please use the **Secured Party Number** whenever it's available. This speeds up our processing because the six-digit number can be entered instead of the lienholder's name and address.

The Right Way *Continued from page 2.*

Disclosure of accident history

Must you tell customers whether a car has been in an accident? Confusion seems to surround this question and the answer is more often “maybe” than a straightforward yes or no.

The key is found in the Wisconsin Administrative Code Chapter Trans 139.04 which states that prospective retail purchasers must be informed in writing of “all significant existing mechanical and structural defects and damage.” This written disclosure is made on the used vehicle disclosure label. Two items which may relate to accident damage are disclosed on the label as corrective welds on the frame or supportive portion of the unibody, and bent or twisted frame or unibody.

The code doesn't assume that you are able to find out about a vehicle's accident history—but your vehicle inspection should reveal corrective welds or a bent or twisted frame or unibody, regardless of what caused the damage. Reporting the existence of damage is more important than determining the cause of that damage.

This doesn't mean you can lie to customers who ask whether a vehicle has been in an accident and you know it has. A court might interpret that as withholding material facts about the vehicle and may award the buyer damages, court costs and attorney fees in a civil action.

In summary, based on your vehicle inspection, your own repair records and information given to you by previous owners, disclose:

- Corrective welds on the frame or supportive portion of the unibody,
- Bent or twisted frame or unibody, and
- Accident history you know about.

1992 Licensing Actions

Bobbie's Auto Service, Milwaukee—License was suspended for 10 days and a Special Order was issued by the Office of the Commissioner of Transportation. Dealer Section investigators found that no vehicles had been recorded in the salvage log book between January and August 1991. Scrap processor records show 44 vehicles junked during this period.

Greg Leske, Cudahy—A Special Order was issued by the Office of the Commissioner of Transportation and the salesperson paid a \$1,000 civil forfeiture for falsifying title applications to aid an unlicensed dealer.

Wyss Auto Sales, Cudahy—A Special Order was issued by the Office of the Commissioner of Transportation and the dealer paid a \$2,000 civil forfeiture for falsifying title applications to aid an unlicensed dealer.

Wis. Dept. of Transportation
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