

Plain Dealing

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

Vol. 9, No. 2

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

R. W. Emerson

You know what they say about deals that sound too good to be true . . . What about an out-of-state outfit that promises to get you clean titles for junked vehicles? Read “The Right Way” in this issue to learn about one dealer’s real-life experience.

Congratulations to Monroe Auto Sales, Ltd. of Monroe and Lynch Chevrolet of Burlington, first and second quarter of 1999 winners of Dealer Section’s “Right Way” dealer award. See page 3 for the details.

Also available in this issue is a tear-out page showing territories and phone numbers for all of our field investigation personnel.

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Hearing scheduled for rule revisions

Amendments to chapters Trans 138 and 139 of the administrative code relating to dealer definition and motor vehicle trade practices will be considered at a hearing set for 1:00 p.m. Friday, Nov. 12, 1999, in Room 421 of Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison.

The 21 proposed amendments would, among other things:

- Amend the definition of “sell” to include delivering a vehicle from a seller in another state to a retail consumer in Wisconsin. This would require some out-of-state dealers to become licensed in Wisconsin and follow trade practice laws for sales here.
- Change the definition of a “new” vehicle to allow any number of miles for manufacturer tests, pre-delivery test, dealer exchange or delivery, plus up to 200 miles for any other purpose (including the purchasing consumer’s test drive).
- Allow a consumer to rescind a contract without penalty when a rebate based on consumer or vehicle eligibility isn’t available at the time of delivery.
- Require dealers to pay off loans on trade-in vehicles within seven business days of acquiring the vehicle.
- Clarify that a dealer may accept a subsequent offer on a vehicle when an accepted offer is already pending, and to specify required disclosures to the consumer whose offer is subject to an earlier, pending offer.
- Exempt from dealer licensing requirements those retail auctions that sell, at one time, heavy (over 16,000 pounds) construction motor vehicles owned by several businesses, when those sales are incidental to the vehicle owners’ primary business activities.
- Make the penalty warning more apparent to the consumer by moving it next to the contract signature block.

Copies of the text of the proposed rule amendments may be viewed and printed at: www.watda.org. Click on the “Links” button, then select “Trans 139 Hearing Draft” in the “Hot Links” section. You may also request that a copy be mailed to you by calling Dealer Section’s Customer Service Unit at (608) 266-1425. The public record will be held open until close of business Nov. 26th to allow those who were unable to attend the hearing to submit written comments. Written comments should be directed to: Cathy Skaar, Policy Analyst, WisDOT - Dealer Section, Room 806, PO Box 7909, Madison, WI 53707-7909.

The Right Way

A deal too good to be true . . .

Here, in his own words, is the experience of a Wisconsin dealer who was convinced by a brochure from T.L.C. Enterprises to apply for a title for a junked vehicle he bought at a salvage pool.

Just say NO!

Dealers beware. If you are ever contacted by phone, fax or mail from companies such as Titles Unlimited, USA Titles or TLC, claiming that they can provide replacement titles for junked vehicles – just say no! Patronizing these companies will result in trouble for you and your business.

It is 100% illegal to try and title a [junk] vehicle in another state (usually New Hampshire or Alabama) and then try to re-title the same vehicle in Wisconsin. Regardless of what these solicitors claim, promise or guarantee, by knowingly attempting to do this, it is a felony and also constitutes mail fraud if done through the mail.

The title companies may even tell you that this is a loophole in the law and it's done every day. They claim they are a legitimate business cooperating with law enforcement and all government agencies. These companies may tell you that they specialize in processing hundreds of junk titles per week to dealers. Some companies even entice you by offering introductory price reductions or dealer discounts.

Believe me, don't try to do anything with a vehicle that has been junked, except use it for parts. When solicited by unscrupulous title companies – just say no! This happened to me.

Joe Tevz
JMT Motorsports, Inc.

Companies such as T.L.C. Enterprises typically have you "sell" the vehicle to them. They then have one of their "associates" in New Hampshire or Alabama register the vehicle, and then "sell" it back to you. In Alabama, vehicles of model year 1974 or later are transferred by bill of sale and registration receipt only. In New Hampshire, vehicles of model year 1988 and older are registered and transferred by bill of sale only. Since they don't require titles, they don't see that the vehicle has been junked.

Wisconsin law prohibits titling any vehicle that has been junked in any jurisdiction. Our advice – don't get involved in these schemes. The consequences against your dealer license can be severe.

Use demonstrator plates for vehicles carrying loads

Dealer plates can't be used on vehicles carrying loads. Use of a dealer plate is based on the vehicle being empty. Vehicles hauling loads are registered and pay fees according to their load-carrying capacity (maximum gross weight). A pickup truck may be operated using a dealer plate if it is owned and actually for sale, and only incidentally used for business purposes.

If you sell commercial trucks, truck/tractors and/or trailers, and have customers who want to test drive them under load, use demonstrator plates.

Demonstrator plates are issued to licensed motor vehicle dealers or trailer dealers on a calendar year basis. Fees are prorated throughout the year and are based on the gross weight category and type of vehicle. The dealership must also have insurance on file with WisDOT's Motor Carrier Services Section.

For more information or a demonstrator plate application form, call (608) 266-1425.

E-mail your off-premise sale notifications

Save postage and long-distance charges by e-mailing the written notice of an off-premise sale instead of mailing or faxing it. Trans 138.08 requires written notice of the sale (including dealership name, license number, dates and location of the sale) at least 10 days in advance. You can now e-mail us at dealers.dmv@dot.state.wi.us to provide written notice.

You may participate in up to six off-premise sales of up to 10 days' duration each year. An off-premise sale is defined by whether or not salespeople are present. If they are, it's a sale regardless of whether or not any vehicles are sold. If no salespeople are present, and vehicles are on display only, it doesn't count as an off-premise sale and no notice is required.

"I just received my Wise Buys kit and want you to know it's a big hit at my dealership. I can't say enough good things about Wise Buys!"

—Norm Aylsworth
JNA Auto Services, West Salem

And the winners are . . .

The Right Way Dealer Award was presented to Monroe Auto Sales, Ltd. of Monroe for the first quarter of 1999, and to Lynch Chevrolet of Burlington for the second quarter of 1999.

Monroe Auto Sales a winner

Arlin Erickson of Monroe Auto Sales, Ltd., pictured below with consumer specialist, Julia Morter and field investigator Jim Harden, was nominated by Julia Morter for:

- ★ Having all paperwork submitted on time and consistently accurate record-keeping.
- ★ Excellent record on consumer complaints. Although the dealership sells only used vehicles, which generally leads to the most consumer complaints, only one complaint was lodged against them in the last several years. That complaint was resolved swiftly and satisfactorily.
- ★ Supporting WisDOT efforts by participating as a Wise Buys dealer.
- ★ Having a great attitude including employees who think the dealership is a great place to work.
- ★ Community involvement – sponsors many local activities.

As pictured above, the award was presented at Monroe



Auto Sales by DMV Administrator, Roger Cross. Also on hand were Chuck Supple (section chief of the Dealer Section), consumer specialist Julia Morter and Investigator Jim Harden.

Lynch Chevrolet picked

The second quarter winner for 1999, Lynch Chevrolet of Burlington, was nominated by Field Investigator Kevin Konopacki for:

- ★ Meticulous compliance with used vehicle laws. During



Pictured from left to right are Patrick Lynch, Ken Hansen, Roger Cross and David Lynch.

a recent visit, Investigator Konopacki found not a single mistake on 50 used car window labels. The dealership also had a title on the premises for every vehicle, and all the titles were properly assigned and filled out.

- ★ Having almost no consumer complaints in the past few years.
- ★ Staying current on laws, policies and procedures by attending all WisDOT and WATDA training sessions and making sure all staff members know how to do things the right way.

Cross presented the Right Way award to David Lynch, Patrick Lynch and Ken Hansen at the dealership. Also on hand were Supple and Konopacki.

The Right Way Award is presented quarterly to recognize dealers who set an example for other dealers of the right way to do business in Wisconsin. The winners are selected by a team of Dealer Section staff from nominations made by their co-workers. Any new or used auto/truck or motorcycle dealer, wholesaler or salvage dealer can be nominated based on criteria such as:

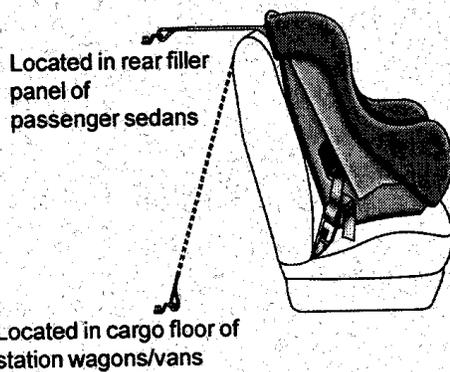
- Good record-keeping
- Few consumer complaints
- Rapid complaint settlement
- Good attitude
- Partnership involvement with DMV
- Community volunteer work.

See the next issue of *Plain Dealing* for the winners of the Right Way Award for the second and third quarters of 1999.

News

New safety seat standards set

A new standard for child safety seats and vehicles went into effect Sept. 1. The National Highway Traffic Safety Administration (NHTSA) says that most child safety seats will come with a top tether strap to keep them more secure in a crash and there will be a standard attachment point for the strap in most new vehicles. This includes: convertible seats, forward-facing-only seats, and seats rated up to 40 pounds that are forward-facing with an



internal harness.

Consumers may ask dealers about installing hardware for a top tether in their older vehicles. Dealers should refer to the owners manual of both the vehicle and the child safety seat for proper instructions and locations in older vehicles. If service departments have any questions, they should contact the vehicle manufacturer or child seat manufacturer's customer service department. In Wisconsin, for additional assistance, dealers and consumers can contact the Wisconsin Information Network for Safety (WINS) at (800) 261-9467.

Salvage inspections now taxable

Beginning Sept. 1, the \$80 inspection fee for a repaired salvage vehicle is subject to sales tax. This includes the 5% state sales tax as well as the .05% and/or .01% county and stadium taxes if the vehicle will be kept in a county that is subject to those taxes. The salvage vehicle inspector will collect the sales tax with the other fees at the time of inspection.

Dealers who are having a repaired salvage vehicle inspected before offering it for sale are not subject to tax on the inspection. Customers who buy repaired salvage vehicles before the inspection is done, and take it to be inspected themselves, will have to pay any sales tax due.

Policy Briefings

Heavy truck registration options

Owners of heavy trucks (those with a registered weight over 10,000 pounds) aren't subject to the mandatory display law and have several options for registering in Wisconsin:

➤ Trucks that will be operated only within Wisconsin (intrastate) and register quarterly or consecutive monthly, can get a telephone authorization by calling (800) 422-6771. Service is available 24 hours a day, 7 days a week.

➤ Trucks that will be operated intrastate and register annually are legal to operate once the application form and fees have been mailed. (The owner should be sure to keep a copy of the application for title and registration in the truck.) A separate post office box has been set aside for intrastate truck applications to expedite service – turnaround time is usually under five days. Mail applications to: WisDOT - Intrastate Trucking Unit, P.O. Box 7926, Madison, WI 53707-7926.

➤ Trucks that will be operated outside the state under the Interstate Registration Plan (IRP) can get temporary credentials through DMV's Motor Carrier Services Section. Call (608) 266-9900 from 8:00 a.m. until 4:30 p.m. Monday through Friday for more information.

Current mileage won't print on titles of exempt vehicles

Once a vehicle is 10 or more model years old, it is exempt from odometer disclosure. WisDOT's computer system won't allow a current mileage reading to be entered once a vehicle has reached exempt status.

If an exempt vehicle previously had a Wisconsin title, the odometer reading and odometer date from that title will carry forward to the new title, even if a new mileage amount is written on the application for title/registration. If an exempt vehicle was previously titled in another state, the word "EXEMPT" will be printed in the odometer reading area of the new title.

In exceptional cases such as collector cars where the dealer asks that the new, higher mileage be printed, we can override the system. This is only done upon request in special cases.

Gift of Wheels update

To reach Fond du Lac's Gift of Wheels program, call the coordinator, Marian Sommerfeldt, at the Arc of Fond du Lac (920) 923-3810.

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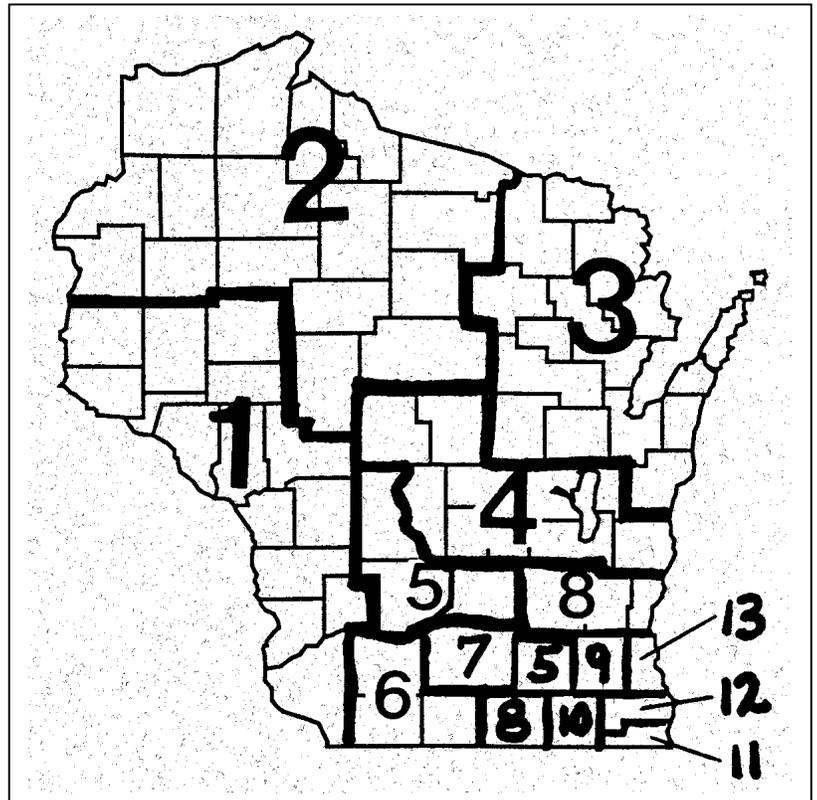
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Advertising Advice

☞ You may have noticed some changes in advertising from your neighboring dealers just over the border. We've recently worked with a few dealers whose ads violated Wisconsin laws. We also worked with the newspapers that ran the ads to alert them to Wisconsin advertising laws.

☞ Our Consumer Science Intern program is now surfing the Web looking at sites for Wisconsin dealerships, so you may receive an educational contact about any problems with your site. The same advertising regulations apply to Web sites as any other form of advertising.

☞ To compare your selling price to the Manufacturer's Suggested Retail Price (MSRP) you need to meet both of the following conditions:

1. Clearly and conspicuously disclose that "MSRP" means "Manufacturer's Suggested Retail Price."
2. Disclose that MSRP may not represent actual sales prices.

☞ Don't advertise that you will pay or absorb the sales tax due on a sale, that sales tax won't be added to the sale, or that you will refund the sales tax to the customer. Implying that sales tax won't be charged could subject you to a misdemeanor charge.

☞ Don't make claims like, "Get back the original manufacturer's suggested retail price for your trade!" unless you mean it. It's misleading to then go on to list disclaimers such as allowing a percentage of original MSRP, less 10 cents per mile driven, plus reconditioning expense. The customer isn't getting back original MSRP for the trade-in. You can't make a false statement true through the fine print.

Dealer Alert

➤ **Lemon Law Rights Notification forms** must be used by all dealers whose manufacturers have state-certified Dispute Settlement Boards. This notice must be given to consumers at time of delivery and provides information about how they can bring unresolved warranty problems to the certified board's attention. Ford dealers can get forms by calling The Phoenix Group at (800) 457-5828. GM dealers can call the GM Fulfillment Center at (800) 269-5100. Other dealers should contact their manufacturers for forms. (Note – Porsche doesn't use the form, the information is included in their warranty booklets.)

➤ The **mandatory display law doesn't apply to motorcycles**. They are still legal to operate as soon as their application for title/registration and fees have been mailed. You may sell a cardboard temporary plate to your motorcycle customers for \$3 if you collect the regular registration fee and the customer wants a temporary plate, but it is not required. There is no motorcycle-sized temporary plate available. You would have to use the standard auto/truck plate.

➤ A few "**paperwork pointers**":

✍ Be sure you **complete the assignment** area on Manufacturers Certificates of Origin when making a dealer trade.

✍ Only use the **fast service envelopes** (form MV2369) if you include the fast service fee of \$4 per application. These are routed to a separate P.O. Box and your application will be slower instead of faster if you send it there without the fee.

✍ When completing a **title/registration application for a lease customer**, be sure to provide the actual lessee information. If someone else is listed in the lessee space (a driver, for example) there could be problems later with renewing or transferring registration since it's the lessee who owns the registration, not the driver.

Citations Issued

Steven Bocek, Oak Creek —Unlicensed dealer sales.

Cooley's Truck & Auto Parts, Eau Claire —Failure to send junked titles to WisDOT and improper bill of sale.

Dennis Gonzalez, Milwaukee —Unlicensed dealer sales.

Joe McGinnis, Tomah —Unlicensed dealer sales.

Guillermo Picado, Milwaukee —Unlicensed dealer sales.

Steven Tshabalala, Milwaukee —Failure to transfer title with intent to defraud.

Dominic Varisco, Milwaukee —Unlicensed dealer sales and failure to transfer title with intent to defraud.

Christopher Weber, — Unlicensed dealer sales.

Dealer and Salesperson Actions

Auto Sport, La Crosse — Paid a \$700 civil forfeiture for obtaining fraudulent titles in the dealership's name and reassigning them to a Minnesota dealer.

Dolphin Enterprises, Milwaukee—A Special Order was issued for failing to submit five applications for title transfer, failing to submit eight junk titles, and failing to properly inspect and disclose three vehicles offered for sale.

Inn Town Motors, La Crosse—Paid a \$700 civil forfeiture for obtaining fraudulent titles in the dealership's name and reassigning them to a Minnesota dealer.

J M T Motorsports, Inc., Wind Lake – Dealer license was suspended for 90 days for fraudulently obtaining

titles for two junked vehicles. The vehicles were crushed as part of the suspension agreement.

S & K Auto Sales, Menasha – Dealer license was revoked for involvement with the sale of a stolen vehicle. The dealer is prohibited from applying for a motor vehicle dealer license or engaging in any activity requiring a dealer license until June 18, 2000.

Scooter's Auto, Green Bay – Dealer license was suspended from Sept. 1, 1999 until Feb. 28, 2000, for conviction of being in possession of vehicles with altered identification numbers.

Tri County Sales & Services, Inc., Neenah— Dealer license was suspended indefinitely for failing to maintain a surety bond or irrevocable letter of credit.

CRIMINAL ACTIONS

Mitchell Bengston, Spring Valley – Was fined \$350 plus court costs for operation of an unlicensed salvage yard.

Scott Boyea, Green Bay – Owner of Scooter's Auto was sentenced to two years probation and a \$525 fine for eight

counts of being in possession of property with altered identification marks.

Thomas Scheidegger, Ridgeway – Sentenced to six years in prison for operating an unlicensed salvage yard and being a felon in possession of narcotics and firearms.

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