

MOTOR VEHICLE DEALER MANUAL

2009 EDITION



PRODUCED BY THE



MOTOR VEHICLE DIVISION

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Texas Department of Transportation

INTRODUCTION & DEDICATION

The purpose of this manual is to provide prospective and current licensees in the Texas motor vehicle industry with a guide to the licensing requirements and operational obligations of licensees in easily readable, layman's language. The main focus is the administration of the Texas Transportation Code and the Occupations Code, Title 14, Chapter 2301, formerly known as The Texas Motor Vehicle Commission Code. These codes with the rules passed by the Texas Transportation Commission and the former Texas Motor Vehicle Board comprise the "Dealer Law."

The goal of this manual is to be comprehensive. However it is impossible to cover every imaginable scenario that could occur in the day to day activities of a motor vehicle dealer. Consequently, nothing in this manual will exempt licensees from knowing and abiding by all other applicable statutes, rules, policies, or procedures of the other governmental agencies which regulate some aspect of the motor vehicle industry. Most licensees know that laws and rules change over time, responding to the needs of the public and the changes within the industry. This manual will be updated on a regular basis to keep up with those changes and licensees are encouraged to also keep up through regular continuing education in the laws that govern their business.

This manual is an effort on the part of the staff of the Motor Vehicle Division to build better communications with the licensed dealer body. Our hope is that a well-informed licensee will promote the purpose of the Texas Occupations Code, Chapter 2301, which is to insure a sound system of distributing and selling motor vehicles and to prevent frauds, unfair practices, discriminations, impositions, and other abuses of our citizens. While many individuals have contributed to its production, this manual is dedicated to Carol Kent, Director of Enforcement, Motor Vehicle Division, who has done more for dealer education in a short time than anyone else in the state.

Brett G. Bray
Director
Motor Vehicle Division

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CHAPTER 1.

DEFINITIONS

1.1 Key Terms. Unless the context clearly indicates otherwise, the following words as used in this manual will have the following meanings:

County Appraiser's Office - The Chief Appraiser sets the property tax rate. Copies of the Vehicle Inventory Tax (VIT) statements and declarations are filed here.

County Tax Office - The Tax Assessor-Collector's (TAC) office in the county in which a dealership is located. This is where documents are submitted for title transfer. Vehicle Inventory Tax statements and Declarations are also filed with these offices.

Curbstoning - The act of selling vehicles somewhere other than licensed premises. Unlicensed dealers commonly use vacant store parking lots and other curbsides to place vehicles for sale. These are people who pose as individuals trying to sell vehicles when in fact they are in the business. Licensed dealers are also known to try to sell their less than desirable inventory away from their licensed premises.

DBA (Doing Business As) – The business name used, which may or may not be the same as the name of the legal entity that owns the dealership (e.g. Auto Imports, Inc. DBA AI Cars). The DBA is also known as the "assumed name."

Franchised Dealer - A person who has a contract (franchise agreement) with a manufacturer or distributor to sell a particular line-make of new motor vehicles.

GDN (General Distinguishing Number) - The dealer's license number, commonly called the "P" number or "GDN", issued by the Motor Vehicle Division is required of all dealers.

Independent Dealer - A person who holds an independent motor vehicle dealer's general distinguishing number, allowing him or her to sell used motor vehicles. See also "Wholesale Dealer."

Line-make - Line-make is not legally defined but generally refers to the various name plates or "badges" under which vehicles are marketed such as "Buick" or "Nissan." Current cases may give a legal definition to "line-make" in the next few years.

MCO (Manufacturer's Certificate of Origin) – This is the birth certificate for a motor vehicle. Manufacturers issue the MCOs to their franchised dealers for vehicles bought from the factory. The MCO is turned in at the first retail sale for a title. These are also called MSOs.

MFR (Motion for Rehearing) - This is a request for the final decision maker to reconsider their decision. Once a case has been subject to a final order, a MFR must be filed before the litigant can appeal the case to the District Court.

MSO (Manufacturer's Statement of Origin) – See “MCO.” This is the same thing.

MVD (Motor Vehicle Division) - A division within the Department of Transportation tasked with the regulation of the distribution and sale of motor vehicles within the state of Texas.

New Motor Vehicle - A new motor vehicle is one that has not been subject to a retail sale to a consumer, regardless of its mileage. Payment of sales tax when purchasing a new motor vehicle does not make the vehicle a used motor vehicle. If the buyer intends to resell the vehicle for profit it is not a retail sale.

Non-franchised Dealer - See Independent dealer.

Occupations Code - As of June 1, 2003, the Texas Motor Vehicle Commission Code will be codified under Chapter 2301 of the Occupations Code. The Occupations Code can be found at <http://www.statutes.legis.state.tx.us/SOTWDocs/OC/htm/OC.2301.htm>.

OEM – Original Equipment Manufacturer.

Person - A natural person, partnership, corporation, association, trust, estate or any other legal entity.

PFD (Proposal for Decision) - The opinion written by the Administrative Law Judge after hearing on a docketed case. The PFD outlines the facts of the case as presented in the hearing and documents the evidence presented and recommends an outcome. The PFD is presented to the Director of the Division for a final decision.

SOAH (State Office of Administrative Hearings) The agency that provides Administrative Law Judges that hear the cases of MVD and render Proposals For Decisions.

SPV (Standard Presumptive Value) - Effective October 1, 2006, Texas law changes how to calculate motor vehicle tax on private-party purchases of used

motor vehicles. Dealers may be requested to provide a certified appraisal for a buyer on a private purchase to prove a value lower than the SPV.

TAC (Tax Assessor-Collector) - The local tax office that is responsible for accepting and issuing receipts for title transfers. A list of TACs can be found at http://www.txdot.gov/drivers_vehicles/vehicle_titles/tax_offices.htm.

Texas Motor Vehicle Board – Formerly known as the Texas Motor Vehicle Commission that regulated the dealer body. The Texas Motor Vehicle Board was dissolved by law on June 14, 2005. All functions of the Board were transferred to the MVD Division Director except the rulemaking authority which is now vested in the Texas Transportation Commission.

Texas Motor Vehicle Commission Code - (TMVCC) The original law that regulated franchised dealers, but now covers both franchised and non-franchised entities. As of June 1, 2003, this code became the Texas Occupations Code, Title 14, Chapter 2301.

Used Motor Vehicle - A vehicle that has been sold to a retail customer for purposes other than resale and for which a certificate of title has been issued to that customer.

VIN (Vehicle Identification Number) - A number assigned exclusively to a particular vehicle by the manufacturer that contains information about the vehicle's manufacturer.

Vehicle Inventory Tax (VIT) - A property tax that dealers pay on their business inventory. This is NOT a tax that is required to be paid by the consumer.

Vehicle Titles and Registration Division (VTR) - Another division of the Texas Department of Transportation that is responsible for issuing and maintaining records of titles. This division is also responsible for licensing salvage dealers and salvage lots and auctions.

Wholesale Dealer - A person who holds a GDN issued by the Texas Motor Vehicle Board and but is not allowed to sell to retail customers.

Wholesale Motor Vehicle Auction - Is a means of offering a motor vehicle for sale to the highest bidder during a transaction that is one of a series of regular periodic transactions that occur at a permanent location. The wholesale motor vehicle auction is open only to licensed dealers.

CHAPTER 2.

THE TxDOT MOTOR VEHICLE DIVISION AND STAFF

2.1 History. The Motor Vehicle Division (MVD) is the former Motor Vehicle Commission. In 1991 the Motor Vehicle Commission was merged into TxDOT and became the Motor Vehicle Division. At that time the Commission became the Texas Motor Vehicle Board which made up of nine members appointed by the Governor for staggered six-year terms. In the 2005 legislative session, the Texas Motor Vehicle Board was dissolved and all functions of the board with the exception of rulemaking now resides with the Director of the MVD. The rulemaking function now resides with the Texas Transportation Commission.

2.2 The Staff. The Motor Vehicle Division staff consists of four sections under the direction of a single director who reports to the Texas Department of Transportation Executive Director. The four sections are Administration, Consumer Affairs, Licensing and Enforcement.

a. Administration. Administration supports the other sections with the functions of Human Resources, Purchasing and Accounting.

The Information Center is also under Administration. It is a group of trained individuals who respond to telephone inquiries and direct calls to other people if necessary. The Information Specialists are specially trained to answer all but the most complicated questions received by the division. In the first year of operation, the Information Center answered more than 100,000 calls.

The Administration Section reviews requests for off-site auto shows and exhibitions pursuant to the law, which requires franchised dealers to submit an application thirty (30) days in advance before removing vehicles from their lot to display at auto shows or other places. The requests for off-site shows and displays must be reviewed for conflicts before approval is given.

A team of individuals composing the Scan Center is another part of the Administration Section. This center is responsible for scanning all paper that comes to the division into LACE, the division's paperless computer system.

b. Consumer Affairs. Consumer Affairs administers the Texas Lemon Law. Should a consumer buy a new vehicle and experience ongoing repair problems, he or she may file a complaint with Consumer Affairs seeking repurchase, replacement or repair under the Lemon Law. This section has trained mechanics as case advisors who mediate between consumers and factory representatives. Failing mediation, the complaints are forwarded to SOAH where

one of the administrative law judges will travel to the consumer's locale to hold a hearing to determine if the vehicle qualifies for Lemon Law relief.

c. Licensing. The Licensing Section receives, reviews and processes new, renewal and amendment applications for licensees. Their job consists of making sure all new applicants meet the requirements for a license and that applicants for renewals are maintaining the requirements. The many different types of licenses have different requirements and the licensing personnel assist applicants in understanding the distinctions and completing their applications. This section must also determine if any new franchised applicants are within the protest area of an existing dealership and notify all dealers who are eligible to protest a new dealership in this area.

d. Enforcement. Enforcement consists of attorneys and investigators who investigate and prosecute violations of the code and rules. The Enforcement Section receives an average of 5,000 complaints a year from consumers, government agencies, public companies and other licensees.

CHAPTER 3.

LICENSING

3.1 Who must be licensed. Any person who is engaged in the business of buying, selling or exchanging motor vehicles or otherwise engaging in business as a dealer, directly or indirectly, including by consignment, must apply for and receive a general distinguishing number issued by the Motor Vehicle Division. This is commonly referred to as the "GDN." See Section 3.3 for certain exemptions from licensure. A person who wants to sell **new** motor vehicles must acquire a franchised dealer license from the Motor Vehicle Division in addition to the GDN.

3.2 Types of licenses.

a. GDN License. GDN licenses are broken down into several categories. A GDN is the basic dealer license that allows a person to buy, sell or exchange the type of used vehicle for which the GDN is issued. For example, if a dealer wants to sell both used motorcycles and used automobiles, that dealer must have both a motorcycle GDN and a motor vehicle GDN. Any GDN licensee may use dealer's temporary tags, buyer's temporary tags and metal dealer license plates only on motor vehicles for which they are licensed to sell. The dealer must be bonded (See 3.10) unless he or she is a franchised dealer or a trailer dealer. The following are the different types of GDNs that must be obtained to sell that particular type of vehicle:

1. Motor Vehicle: This dealer may buy, sell or exchange any type of used vehicle other than motorcycles, utility trailers or semi-trailers. A separate GDN must be obtained for these categories.

2 Motorcycle: This dealer may buy, sell or exchange any type of used motorcycle, motor scooter, or ATV.

3. Non-motorized Travel Trailer (towable recreational vehicle): This dealer may buy, sell or exchange any type of used travel trailer.

4. Utility Trailer/Semi-Trailer: This dealer may buy, sell or exchange any type of **new or** used utility trailer or semi-trailer. This is the only GDN that permits the sale of new vehicles without a franchised dealer license.

b. Wholesale Dealer License. A wholesale GDN may be obtained if the dealer sells used vehicles only to other licensed dealers. A wholesaler may not sell retail. There is no license category for a wholesale new vehicle dealer.

c. Wholesale Motor Vehicle Auction License. This license allows an entity to offer vehicles for sale by bid only to licensed dealers at a bona fide auction at a

permanent location. Only one auction GDN may be issued for a particular location. No other entity may hold a license at the auction location.

d. Franchised Dealer License. In addition to a GDN, if a dealer wishes to buy, sell, or exchange new motor vehicles, he or she must obtain a franchised dealer license for each separate and distinct showroom that will sell new motor vehicles or provide warranty service. A franchised dealer may operate several locations within a city limit with one GDN. If a dealer relocates a showroom, an application for a new franchised dealer license must be made for the new location, but the dealer will be able to keep the same GDN if the move is within the same city limits. If a franchised dealer wishes to add a line-make to their current licensed location, they submit a license amendment form so the new line can be added to their franchise license.

The same rules apply to franchised dealers for GDNs. They may buy, sell or exchange any type of used vehicle within the particular type of GDN they possess. For example, a Ford dealer may be franchised to sell new Fords and have a motor vehicle GDN to sell used cars. However, they may not sell used motorcycles (of any line-make) without a motorcycle GDN. A dealer who has a general GDN may not sell used travel trailers without a separate GDN for the travel trailers.

e. Independent Mobility Motor Vehicle Dealer. This license allows a dealer to offer to sell new mobility motor vehicles. A "mobility motor vehicle" is a motor vehicle that is designed and equipped to transport a person with a disability.

f. Converter License. This license is required of persons who assemble, install or affix a body, cab or special equipment to a chassis prior to the retail sale of a vehicle, or who substantially add, subtract from or modify a previously assembled or manufactured motor vehicle unless the resulting vehicle is a motor home, ambulance or fire-fighting vehicle. Converters cannot sell converted new motor vehicles directly to the retail public, including cities and municipalities. Only a franchised dealer for the underlying line-make of the converted vehicle may sell the vehicle at retail. The requirements for obtaining a converter license can be rather complex and depend on the type of conversion performed. See Section 9 for more information.

g. Manufacturer License. This person manufactures or assembles new motor vehicles for sale within this State by franchised dealers, regardless of the location of the factory. This applies to all types of motor vehicles, whether they are cars, motorcycles, travel trailers, motor homes, ambulances, fire trucks or other types of service vehicles. They may use manufacturer metal license plates exclusively for testing vehicles or loaning a vehicle to a consumer in connection with a Lemon Law case. Manufacturers may not sell directly to the retail public, including cities and municipalities.

h. Distributor License. This person distributes and/or sells new motor vehicles to franchised dealers within this State and is not a manufacturer.

i. Representative License. This person acts as an agent, employee or representative of a manufacturer, distributor or converter and performs duties in this State relating to promoting the distribution and/or sale of new motor vehicles or contacts dealers in this State on behalf of a manufacturer, distributor or converter. This license allows the representative to promote the product, but not sell it as selling must be done through a licensed franchised dealer.

j. Lessor License. This license is required of a person who, under the terms of a lease agreement in excess of 180 days, gives another person the right to possession and use a motor vehicle that is titled in the name of the lessor. No bond is required.

A franchised dealer does not need a lessor license to lease the line-make of vehicles for which they have a franchise license. Any state or federally chartered financial institution or a regulated subsidiary of a state or federally chartered financial institution is not required to obtain a lessor or lease facilitator license. Any entity exempt from the licensing requirement still needs to observe the record-keeping requirements found in the Lease Rules. To read more on the Lease Rules, see Chapter 8 on Leasing.

A dealer may not have the words "lease" or "leasing" in his or her company name unless they also qualify for and obtain a lessor or a lease facilitator license.

k. Lease Facilitator License. This license allows a person to hold himself or herself out to be a leasing agent or leasing company. This person solicits someone to enter a contract of agreement to lease a vehicle. A lease facilitator never has the leased vehicle titled in his or her name but merely acts as an agent between the seller of a vehicle and the lessor in procuring a lessee with a lease contract. A lease facilitator by definition is not the lessor or owner of a vehicle, but rather someone who puts the lessor, selling dealer and lessee together.

A lessor licensee does not need to have a lease facilitator license to facilitate leases for themselves. The lessor license includes the ability to facilitate its own leases. However, if the lessor facilitates leases between lessees and *other* lessors, they would need a lease facilitator license in addition to their lessor license.

3.3 Exemptions. A person is not required to obtain a dealer GDN if the person:

- a.** Is selling or offering to sell fewer than five vehicles in the same calendar year *if the vehicles are owned and registered in that person's name*. If the vehicles are not owned and registered in that person's name, they would need a license to sell even one vehicle; or
- b.** Is a federal, state, or local government agency selling a vehicle;
- c.** Is selling or offering to sell a vehicle the person acquired for personal or business use to a person other than a retail buyer if the sale or offer is not made to avoid the law; or

- d. Is selling a vehicle in which the seller holds a security interest at a forced sale, in a manner provided by law;
- e. Is acting under a court order as a receiver, trustee, administrator, executor, guardian or other appointed person;
- f. Is an insurance company selling a vehicle acquired from the owner as a result of paying an insurance claim;
- g. Is selling an antique passenger car or truck that is at least 25 years of age;
- h. Is a collector selling a special interest vehicle that is at least 12 years of age. A special interest vehicle is defined in Transportation Code §683.077(3) as a motor vehicle that has not been changed from the original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

3.4 Licensing Periods All licenses are good for one year from the date of issuance. But starting in the fall of 2008, the terms will increase to two years. Licensees will be gradually added to the two year license period at this time. The license fee for one year will remain the same but the fee for two years will have to be paid at one time for those dealers once their license period is increased to the two year period. Applicants are reminded that they must not commence business until the license becomes effective. Renewal notices are sent to the mailing address in a licensee's file between **75-90** days before the expiration period. If the licensee has not informed the agency of a change of address, the renewal process will be delayed.

3.5 License Purveyors. A license purveyor is someone who assists licensees in applying for and maintaining their license to the point where the licensee does not receive communication directly from the MVD. In July 2002, the Texas Motor Vehicle Board promulgated a rule that condemned the practice of license purveyors imposing themselves between the license applicants and the application. The rule states that applications for licenses will only be accepted for processing if filed by the applicant or the applicant's designated attorney or CPA. License fees paid by check must be drawn on the applicant's bank account; required information will not be accepted if it is on the letterhead of anyone other than the applicant or the applicant's attorney or CPA; information will not be given to or follow-up information requested from anyone other than the applicant or the applicant's attorney or CPA; new license numbers will not be released to anyone other than the new licensee or the new licensee's attorney or CPA.

3.6 Obtaining More than One GDN or License. Questions often arise as to when a dealer needs an additional GDN. The following are some examples of instances in which a dealer would need to obtain more than one license:

- Franchised dealers need a franchise license in addition to the GDN.

- Franchised dealers must obtain a separate franchise license for each location from which new motor vehicle sales are made.
- Dealers who own dealerships in different cities.
- Franchised or independent dealers who wish to sell different types of vehicles (i.e. a motorcycle dealer who wishes to sell trailers as well).

A separate bond is needed for each type of GDN, for example, selling automobiles and motorcycles would require a separate GDN for each category and a separate bond for each GDN. Premises requirements contained in Section 3.7 also affect the number of GDNs a dealer must have.

3.7 Premises Requirements. Dealerships are licensed by location. A dealer needs only one GDN for each location from which he or she buys, sells or exchanges vehicles of the same type. However, for legitimate reasons, a dealer may have more than one GDN for a single location.

a. Primary Location. If all of a dealer's locations are situated within the same city limits, a dealer only needs one GDN for each type of vehicle sold. The dealer shall determine and advise the agency which location is designated as his primary location.

b. Supplemental Location. Any additional locations within the same city limits are considered supplemental locations, and while a separate GDN license is not required, the dealer must make sure the agency is notified of all supplemental locations. A nominal fee is required to add a supplemental location. Should a dealer acquire an additional location outside the city boundary, an additional GDN license and bond will be needed. All locations must meet the premises requirements.

c. Different Entities at Different Locations. Some dealers operate their different locations under different entities. For example, a dealer may operate each location under a different corporation or with a different partner. If the entity is not the same, then each entity is considered a different dealer and must have a separate license regardless of where the dealership is located.

3.8 Established and Permanent Location. Each location that a dealer operates must be an established and permanent place of business. To be considered established and permanent, the location must have the minimal premises requirements outlined herein.

(a) Office structure for retail and wholesale dealers. A dealer that files an application for a new license or a supplemental location after May 1, 2008 must conform to the following requirements:

(1) The office of a retail or wholesale dealer must be located in a building, with connecting exterior walls on all sides, that has been assigned a separate mailing address by the U.S. Postal Service. The office structure must have at least 100 square feet of interior floor space exclusive of hallways, closets, or restrooms and have a minimum seven foot ceiling.

(2) A dealer's office must comply with all applicable local zoning ordinances and deed restrictions.

(3) A dealer's office must have electricity with adequate heating and lighting.

(4) A dealer's office may not be located within a residence, apartment house, hotel, motel, or rooming house.

(5) A storeroom, closet, stock room, or any other room that is not open to the public may not be designated as the dealer's office.

(6) A route to a dealer's office may not pass through a food preparation area.

(7) The physical address of the dealer's office must be recognized by the U.S. Postal Service or capable of receiving U.S. mail. Licenses and metal dealer plates will not be mailed to any out-of-state address.

(8) A portable-type office structure may qualify as an office only if the structure meets the other requirements and is not a readily moveable trailer or other vehicle.

b. Required office equipment for retail and wholesale dealers. At a minimum, the office must be equipped with: (1) a desk; (2) two chairs; (3) a file cabinet to hold records; (4) Internet access and printer; (5) a fax machine; and (6) a land-based, working telephone listed in the business name or assumed name under which the dealer does business.

c. Number of dealers in one office. Not more than four retail dealers may be located in the same business structure. Not more than eight wholesale dealers may be located in the same business structure. Unless otherwise authorized by the Transportation Code, a retail motor vehicle dealer and a wholesale motor vehicle dealer either of which is established after September 1, 1999, may not be located in the same business structure.

d. Dealer housed with other business. If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from that of the other business, a separate telephone listing, a separate telephone and fax number, and a separate sign for each business is required.

A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is

conducted or has a separate lease agreement from the owner of that property. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment.

e. Sign Requirements.

(1) Business sign requirements for retail dealers. A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the dealer's business name, or assumed name as reflected on the dealer's license, under which the dealer conducts business. The sign may omit terms such as "Inc.," "LLC," "LP," or similar identifiers of the business entity type. The sign must be permanently mounted and must be readable from the street at the address listed on the application for the dealer license. Temporary banners or signs are not acceptable; however, a franchised dealer may, for the purpose of obtaining its license, use a temporary sign or banner if the dealer can show proof that a factory-specific sign is on order that meets the requirements set out in this paragraph.

(2) Business sign requirements for wholesale dealers. A wholesale dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the dealer's business name or assumed name as filed with MVD, under which the dealer conducts business. The sign may omit terms such as "Inc.," "LLC," "LP," or similar identifiers of business entity type. The sign must be permanently mounted on the business property and shall be on the main door to the dealer's office or on the outside of the building housing the office. If the dealership is located in an office building with one or more other businesses and an outside sign is not permitted by the landlord, a business sign permanently mounted on or beside the main door to the dealer's office with letters at least two inches in height is acceptable. Temporary banners or signs are not acceptable.

f. Display area requirements. A wholesale dealer is not required to have display space at the dealer's business premises. A retail dealer must have an area designated as display space that meets the following requirements:

(1) The display area must be located at the dealer's business address or contiguous with the dealer's address. A non-contiguous storage lot is permissible only if there is no public access and no sales activity occurs at the storage lot. A sign stating the dealer's name and the fact the property is a storage lot is permissible.

(2) A dealer's display area must be sufficient to display at least five vehicles of the type for which the dealer is licensed. Those spaces must be used exclusively for that dealer's inventory and may not be shared with another business or a public parking area, a driveway to the office, or another dealer's display area.

(3) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to the use as a display area. If the easement, right-of-way,

or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(4) If the display area is in conjunction with another vehicle dealership, the display area must be separated in such a manner that the inventories of the dealers are readily discernible from each other. The inventory of each dealer must be grouped together and not intermingled and each vehicle in the inventory of a dealer must be clearly marked to identify the dealer offering the vehicle for sale.

(5) If the display area is in conjunction with another business that is not related to the sale or operation of motor vehicles, the display area for the dealer's inventory must be separated from any other parking area by a material object or barricade that is affixed to the ground in a manner that cannot be readily moved by an individual. A permanent sign must be erected that designates the area as reserved for the dealer's inventory with the dealer's name and telephone number on the sign with letters at least six inches in height. When the display area is full, additional inventory vehicles may be parked outside the display area only in an area immediately adjacent to the barricaded area. The additional inventory must be on the licensed premises and not in any restricted area such as right-of-way or public sidewalks. Any additional inventory not within the barricaded area must be identified by a sign with the dealer's name and telephone number that clearly distinguishes the inventory from any public or employee parked vehicles.

(6) The display area must be adequately illuminated if the dealer is open after sundown so that vehicles for sale can be properly inspected by any prospective customer.

(7) With the approval by the MVD division director or the director's designee, the display area may be located inside a building.

(8) If the dealer's premises includes gasoline pumps or houses another business that sells gasoline, the dealer's display area may not be part of the parking area for gasoline customers and may not interfere with access to or from the gasoline pumps. The display area may not contain a fuel fill port or any fire prevention access to the fuel tanks.

(9) If a dealer also holds a salvage dealer license, each salvage vehicle that is offered for sale on the premises of the dealer's display area must be clearly and conspicuously marked with a sign that informs the potential buyers that the vehicle is a salvage vehicle. This requirement does not apply to a licensed salvage pool operator.

g. Lease or Ownership of the Property. A dealer must own the property where the business is conducted or have a written lease for at least the term of the license on that property. If the premises from which a dealer conducts business, including any display area that is not owned by the dealer, the dealer must maintain a lease that is continuous with the period for which the dealer's license will be issued. That lease agreement must be on a properly executed form containing at a minimum: (A) the names of the lessor and lessee; (B) the period of time for which the lease is valid; and (C) the street address or legal description of the property. If only a legal description of the property is provided,

the dealer must attach a statement that the property description in the lease agreement is the dealer's street address.

h. Business Hours.

(1) Business hours for retail dealers. A retail dealer's office facility shall be open at least four days per week for at least four consecutive hours per day between the hours of 8:00 a.m. and 8:00 p.m. The dealer's business hours for each day of the week must be posted at the main entrance of the dealer's office that is accessible to the public. The owner or a bona fide employee of the dealer shall be at the dealer's licensed location during the posted business hours for the purpose of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the dealer will resume operations. The dealer must notify the division in writing of any change in the dealer's standard business hours. Regardless of the retail dealer's business hours the dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, answering service, or answering machine.

(2) Business hours for wholesale dealers. A dealer who holds only a wholesale license must post its business hours at the main entrance of the dealer's office. A wholesale dealer shall be at the dealer's licensed location for at least two weekdays per week at least two consecutive hours per day between the hours of 8:00 a.m. and 6:00 p.m. Regardless of the wholesale dealer's business hours the dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, answering service, or answering machine.

i. Dealer must display license. A dealer must display in a conspicuous place at each place of business the dealer license issued by MVD at all times in a manner that is easily readable by the public. If the dealer's license applies to more than one location, a copy of the original license may be displayed in each supplemental location.

3.9 Applying for the General Distinguishing Number License. The first step in applying for a license is to request an application packet for a new license from the MVD. This may be done simply by calling the main number and requesting a packet or going to the TxDOT website and downloading all the application forms found at http://www.txdot.gov/business/vehicle_dealers/dealer_licensing.htm Make sure you download all the necessary forms. If you have received a packet by mail or have the forms downloaded, read the contents carefully. Properly calculate the fees for the license and any metal dealer plates. See the Lease Rules for special requirements for Lessors and Lease Facilitators in Chapter 8.

a. Choose one GDN category per application. You may need more than one type of GDN depending on what you plan on selling. A separate application will be needed for each different category you choose.

b. Complete all Sections, Include all Required Attachments. Review your application several times to make sure you have completed all sections. Incomplete applications will delay the issuance of your license. Double check that you have attached all required attachments. Failure to provide every item requested will also delay your license approval. Required items to attach to the application include:

1. Financial Statement. You may fill in the form on the application or attach a separate statement or balance sheet. If the applicant is a corporation or a partnership, then the financial statement submitted must be for that entity. If this is a new business, a pro-forma financial statement is sufficient.

2. Ownership and Management Information. This form is provided and you should be sure and give all information requested, such as date of birth, social security numbers, addresses, driver's license number and percentage of ownership, depending on the type of entity.

3. Business Background. In the space provided, give a short statement of your experience in the business world for the last eight years or you may attach a formal resume. This must be completed for the owner/operator, general manager or all partners.

4. Proof of Occupancy. If you own the property, attach a copy of the deed showing the same name as on the application or a copy of a current tax receipt showing the location and name. If you have leased the premises, your lease must be on a properly executed form, signed by both the lessor and the lessee, for at least the term of your license and should clearly identify the property as the same as on your application. If you have subleased the property from the original lessee, you must include the sublease and the original lease documents.

5. Description of Physical Facilities. In the space provided, describe the building size, number of rooms and size of lot.

6. Photographs. These should further illustrate your location as described above. They must show: a) the overall appearance of the business from the street; b) the inside of the office with the desk, phone, chairs and file cabinet; c) the business sign with the name that is on the license and d) the sign announcing your regular business hours to the public.

7. Average Inventory. In the space provided, state approximately how many vehicles and the average value per vehicle you intend to maintain for sale.

8. Number of Employees. Count yourself as one and then add to it any others you plan on hiring or have hired. If applicable, you need to show separately the number of sales, parts, service and administrative personnel.

9. Assumed Name Certificate. If you are operating your dealership under an assumed name, in other words, a different name than the entity that holds the license,

(e.g. John Doe d/b/a Doc's Auto Sales, or Doe, Inc., d/b/a Doe's Auto Sales) you must submit an Assumed Name Certificate. You can get the forms and instructions for this form from your county clerk for sole proprietorships and general partnerships. If you have a corporation or a limited liability company, such as an L.L.P., you need to secure the Assumed Name Certificate from the Secretary of State.

10. Certificate of Incorporation, Limited Partnerships, etc. If the entity applying for a license is a corporation or limited partnership, you must submit a copy of your certificate of formation from the Secretary of State.

11. Map with Detailed Instructions. Draw a legible map in the space provided or attach a map with the location of the dealership pinpointed.

3.10 The bond. New applications are held up more often than not because the bond is not in the proper form or format. Read very carefully the requirements of the bond.

a. Who needs a bond, for what term and what amount? With the exception of franchised dealers, all new applications for motor vehicle, recreational vehicle and motorcycle licenses must be submitted with a surety bond for \$25,000. The bond must be effective for the same term as the license. The bond must always equal \$25,000. In the event a claim is made and the bond is reduced to below \$25,000, a dealer must immediately bring the bond back up to \$25,000. The application will not be approved if the bond is not valid for one year from the last day of the month in which the application is submitted.

b. Names on bond and contents. The names on the bond must match the names on the license exactly. The *original* bond with the embossed seal must be attached, and must show the following:

1. The bond must be signed and dated by the owner/principal of the dealership and by an authorized agent for the bonding company.
2. Effective dates must be equal to the license term.
3. The bond must be issued in the name of the applicant; for example:

For a sole proprietor: John Doe DBA John Doe Motors

For a partnership: (All partners need to be listed)
John Doe and Jane Doe DBA Doe Motors.

For a corporation with no DBA: John Doe, Inc.

For a corporation with a DBA: John Doe Inc., DBA John Doe Motors

4. A proper, original Power of Attorney from the bonding company must also be included with the bond.

5. The bond must be in the approved language. A copy of the approved language is included in the application.

6. The bond must reflect the physical address of the dealership. If the GDN is issued for multiple locations within the same city limits, all physical addresses must be reflected on the bond.

3.11 Phone Listings. The telephone listing in the exact and complete name under which the dealer conducts business must be verifiable through one of the following:

a. A listing in a current telephone directory in the business name and same phone number;

b. A copy of a work order from the telephone company showing the dealer's number;

c. A copy of a recent telephone bill which shows the correct business name and phone number.

3.12 Employer Identification Number. If the applicant is a partnership, corporation, limited liability company, or limited partnership, then an Employer Identification Number (EIN) must be obtained from the Internal Revenue Service and inserted into the application.

3.13 Felony Conviction Question. The Statement of Ownership asks if any person named in the application has **ever** been convicted of a felony or is presently charged with the commission of any such crime. Answer this question and answer it truthfully. If it is discovered that an applicant lied about a conviction, it is considered a misrepresentation on the application that could result in not only the application being denied, but also denial of future applications, and/or civil penalties. Copies of any and all convictions must be submitted with application.

3.14 Sign and Notarize the Application. After the applicant has double checked to see that all spaces are filled out and all items required are attached, the applicant or its authorized agent needs to sign the application in front of a notary public. Read carefully the affidavit to which the applicant or its agent is swearing. The applicant or its agent is certifying under oath that the applicant has met all the premises requirements; that the applicant or a bona fide employee will be on the location available to the public or the agency during your posted business hours. The applicant agrees to permit the agency to examine the applicant's records during working hours. The applicant or its agent is also swearing that the applicant is the party applying for the license and the applicant is not applying on behalf of someone else and the applicant is not delinquent with child support.

If the applicant makes any misrepresentations on the application, the applicant may not only lose its license but the applicant or its agent may subject itself to civil penalties denial of future applications, and/or criminal prosecution. Original signatures must be submitted.

3.15 Amending a Current License. Any change in the licensed entity, name or ownership of the dealership, addition of a location, deletion of a location, or relocation of the dealership, must be reported to the agency. Failure to notify the agency of changes in address, telephone number, name, type of entity, ownership, or of new locations, within ten (10) days after such change may result in a civil penalty, license revocation, or license suspension.

a. Adding an Additional Location. If a dealer wishes to add a new location and the new location is within the city limits of his currently licensed location, an amendment form must be submitted with the minimal fee of \$25.00. No new or additional GDN is required as long as the vehicle type is the same. If the location for the additional dealership is not in the same city limits as the first location, then a new application must be completed and a different GDN issued for the additional location.

b. Moving to a New Location, Deleting a Location or Closing the Business. Should a dealership move, delete a supplemental location or close business, the agency should be notified as soon as possible, preferably before the change occurs to avoid problems for being incorrectly licensed.

c. Changing the Name or Ownership of the Dealership. To maintain a license, a dealership must have its license, bond and lease all in the same name. The rules require that a dealership notify the agency within 10 days of the change of any name or any ownership change.

d. Changing the Type of Entity of the Dealership. If a sole proprietor incorporates or takes on a partner, the agency should be notified, so the dealer may apply for a license in the name of the new entity if necessary. Failure to do so could result in a fine and suspension of the right to do business.

e. Transfer or Assignment of License. A dealer license issued by the agency is not transferable or assignable. The state-issued license may not be considered part of a buy/sell agreement of a franchised dealership. A license is not automatically transferred by a court order directing the change of the ownership of a licensed dealer. In such cases, the transferee, assignee, buyer or other person receiving the benefit of the dealership is required to apply for a license in his or her own individual or business name and meet all the qualifications for the license.

3.16 Obtaining A Franchise License. Any person who wants to engage in the business of buying, selling or exchanging new motor vehicles and/or servicing or repairing motor vehicles pursuant to the terms of a franchise and a manufacturer's

warranty must obtain a GDN. In addition, each facility at which new motor vehicles are sold, displayed or serviced must have a franchise license.

3.17 Service-Only Facilities. Only franchised dealers may open a separate service-only facility to perform warranty work on the line-make they are franchised and licensed to sell. This license is like a franchise license in that it may be subject to protest by other like line-make franchised dealers.

3.18 Protest Area. Existing dealers of the same line-make may have the right to protest the establishment of a new franchised dealership or relocation of an existing one if the requirements of 43 TAC §105 et seq are met. Under the Texas Occupations Code, an existing dealer may protest an application for the establishment of a same line-make dealership or the addition of a line to an established dealership, if the proposed dealership is in the same county or within 15 straight-line miles from the existing dealer. An existing like-line dealer located within the same county or within 15 straight-line miles may protest the relocation of a dealership if the proposed relocation site is farther than one mile from the site from which the dealership is being relocated and the relocation site is closer to the existing dealer than the site from which the dealership is being relocated. Notification of these applications is provided to the existing dealer(s) by the Motor Vehicle Division, together with the rules and information concerning protest procedures. The protest period is 15 days from the mailing of notice of eligibility to protest and cannot be shortened or waived.

3.19 Relocating a Franchised Dealership. A franchised dealer may operate several locations within a city limit with one GDN, but a franchise license is required for each separate and distinct showroom that will sell new motor vehicles or provide warranty service. If a dealer relocates a showroom, an application for a new franchise license must be made and received for the new location before opening business, but the dealer will be able to keep the same GDN if the move is within the same city limits.

3.20 Addition or Deletion of a Line. Prior to adding a line to an existing dealership, whether as a new point, an acquisition from an existing dealer or other, a request for a license amendment must be submitted to the Motor Vehicle Division **and** the approval of such addition obtained. Furthermore, any other information such as a deletion of a line, ownership changes, etc., must be submitted promptly.

3.21 Special Requirements or Exemptions for Lessors and Lease Facilitators. Lessors may be located anywhere; lease facilitators must have a physical presence in Texas. A lessor may operate anywhere in Texas with one license; a facilitator must have a license for each physical location from which he or she operates. Lessors and Lease facilitators must apply for a new license whenever they relocate to another city. For relocations within the same city limits, an amendment application is required.

3.22 Cancellation of License. All the requirements that are needed to obtain a license must be maintained throughout the licensing period to keep the license valid. If

any of the requirements are allowed to lapse, the dealer's license is at risk of being canceled.

3.23 Denial of Initial or Renewal Application. If a licensee fails to meet or maintain the requirements of a license, the MVD may deny their application for a new license or the renewal of a license. The agency will send to the applicant/licensee a letter advising them of the reasons for non-renewal or denial of the license. The applicant/licensee receiving this letter is advised that they have 20 days to request in writing a hearing on that denial or renewal. Failure to correspond with the MVD within that 20-day time period will be considered a waiver of the applicant/licensee's right to a hearing on the denial of the license.

3.24 Renewing Licenses. MVD will mail out reminder notices for license renewals to licensees at least 75-90 days before the date of license expiration. Failure to receive the renewal notice does not excuse a late renewal. Renewal applications with all required attachments should be submitted to the agency at least 45 days before license expiration to allow for application processing and the issuance of a new license and renewal stickers for metal plates before expiration. If a licensee does not renew his license in a timely manner, it will expire and all privileges, including entering the auction to buy vehicles, are suspended. Failure to renew a license within the time specified will cause a licensee to be assessed a penalty of 50 percent of the application fee amount for each 30-day period the license is expired. Licenses will not be renewed 90 days after the date of expiration, and the licensee will have to submit a new application.

3.25 Applicant's Procedures and Rights. Dealers or applicants who are denied renewal or initial licenses are notified of the denial and given 20 days to appeal the decision by requesting a hearing. If a renewal is denied, the dealership may be able to continue operating until the hearing results are final as long as all requirements for the license continue to be met. Requests are sent to Enforcement for docketing. See Chapter 12 for more information on the hearing process.

CHAPTER 4.

DEALER OPERATIONS

4.1 Record-keeping Requirements. Dealers are subject to many different state and federal agencies record keeping requirements. Requirements for some agencies involve keeping different documents from those required by MVD for longer periods of time. Dealers are responsible for complying with all record-keeping requirements.

MVD requires a dealer to keep a complete, accurate record of all vehicle purchases and sales (retail or wholesale) for a minimum period of 24 months. The current and previous 12 months of records must be kept at the dealer's licensed location and be available for inspection by an MVD representative. The remaining 11 months of records need not be kept at the dealer's licensed location, but they must be readily available for inspection upon request of an MVD representative.

Records may be kept in an electronic format. Records, like the names, addresses, dates, VINs, etc. may be kept in a database, and no paper copy is required if they are available for inspection and are capable of being printed out for inspection by the MVD representative at the dealership location during normal business hours. Original vehicle titles in the possession of a dealer (not by a lien holder) should be kept in a secure but readily available location near the dealership if not on the premises. If the original title is kept by the floor-planner, the dealer is required to keep a copy of the front and back of the title on the dealership premises in its files.

The Occupations Code specifically allows the Department to inspect the books and records of a license holder in connection with the performance of its duties under the law. An investigator may show up at the dealer's lot and expect to see the records there or MVD may request copies of records by certified mail. If the dealer does not respond to the certified mail request within 15 days or provide the records as requested at the dealer's lot, a civil penalty or suspension or revocation of the license may be imposed.

a. Wholesale transactions. When a dealer sells to another dealer, the seller needs to be sure he is dealing with a legitimate dealer. A dealer can check the MVD database instantaneously to see if a person is licensed by going to the MVD website, http://www.txdot.gov/business/vehicle_dealers/dealer_lists.htm, clicking on the Statewide Dealer List link, and making a copy of the page listing the dealer. An additional way to verify a person is a currently licensed dealer is to ask for and make a copy of the buyer's current GDN license.

These additional records should be kept:

- 1.) A Purchase Record, Bill of Sale, Sales Contract, or Auction Receipt showing the date of purchase, vehicle identification number (VIN); name and address of seller and mileage statement.
- 2.) A photocopy of **both sides** of the negotiable title after reassigned to the licensed dealer following a wholesale transaction.

3.) Odometer Disclosure Statement if the odometer disclosure is not integrated into the title.

4.) The Texas Motor Vehicle Sales Tax Resale Certificate is to be filled out, signed by the buying dealer and kept in the dealer's sales file. Do not send the completed certificate to the Comptroller. When the State Comptroller audits your records, the auditor will want to see this form in your records. A copy of this form can be found on page 7-7. (Form 14-313 is available from the State Comptroller's Office).

b. Retail transactions. The following records for retail transactions should be kept:

1.) Retail Installment Agreement, Sales Contract, or Bill of Sale which should include the date of sale; vehicle description (i.e. year, make and model); vehicle identification number (VIN); name and address of person purchasing the vehicle; sale price; all other fees and charges that are the total cost of the vehicle including trade-in, pay-off of trade-in, extended warranty, insurance, etc.

2.) A copy of the Application for Texas Title after filled out and signed by buyer and seller (Form 130-U). This form may be obtained from the Tax Collector's office or your local VTR office. A copy of this form is shown on page 6-12. Tax Collector's receipt for title application (White Slip). This is an important document which can prove you did apply for title on a sold vehicle.

3.) A copy of the Buyer's Guide, also known as the "As-is" statement **signed by buyer**.

4.) Odometer Disclosure Statement.

5.) A copy of the *front and back* of the negotiable title signed by buyer and seller. Also, the Power of Attorney (if required to complete the titling process). See more about powers of attorney in Chapter 6, Titling Vehicles.

6.) The VTR Form 136, County of Title Issuance, on which the consumer elects which county they desire to have their vehicle registered in. See Page 6-15.

c. Other Forms. Copies of other forms may be necessary depending on the type of sale and will need to be kept as a part of the dealer's records. Most of the forms may be obtained from the Tax Assessor-Collector's office or your local TxDOT Vehicle Titles & Registration office or their respective websites. VTR forms can be found on the TxDOT website at http://www.txdot.gov/txdot_library/forms/citizen/drivers_vehicles/default.htm. Forms involving taxes may be obtained from the State Comptroller's office or its website, <http://www.window.state.tx.us/forms>.

Commonly used forms are the following:

1.) The Dealer's Reassignment of Title for a Motor Vehicle Form (Form VTR-41A) should be used if all available assignments on the back of a Texas title are signed or the negotiable title is from another state or foreign country. See page 6-9.

2.) Texas Motor Vehicle Sales Tax Exemption Certificate – For Vehicles Taken Out of State (Comptroller's Form 14-312) is used if a vehicle is sold to someone who claims they are taking it out of the state or the country, whether the transaction is a wholesale or retail sale. The original must be kept with the sales file. See page 7-6. Since dealers are required to apply for vehicle titles, this form is an important record that proves the consumer advised the selling dealer the vehicle was leaving the state.

A motor vehicle "sales tax" is essentially an ad valorem or use tax. Any use of the vehicle in the state that is not incidental to leaving the state is going to require the tax being collected from the buyer. For example, a student who buys a vehicle and wants to take the vehicle back to his home state for registration at the next school break in two weeks, is using the vehicle in this state and is not taking the vehicle directly out of the state after purchase. The student should be charged the tax, and the titling and registration needs to be performed by the dealer.

The buyer should be advised that it is a felony to claim this exemption if the buyer intends to register and title the vehicle in Texas.

4.2 Consignment Sales. The following records for consignment sales transactions should be kept:

- 1.) A written consignment agreement for the vehicle or a power of attorney covering the vehicle. A written consignment agreement should be completed by the licensed dealer and made a part of the sales file. A suggested consignment form is found at page 4-22.
- 2.) A copy of the title should be at the dealer's licensed location for inspection by buyer or a MVD representative. It is recommended that the copy of the title be attached to the consignment agreement.
- 3.) Record-keeping requirements for the actual sale of a consignment vehicle are the same as those of a retail sale as listed in Section 4.1(b).

4.3 Blue Law. Dealers must follow the Blue Law, which prohibits dealers from selling or offering to sell motor vehicles on consecutive Saturdays and Sundays. Dealers may choose to be in operation on either Saturday or Sunday of a given weekend, but not both. Salespersons may not offer vehicles on a consecutive Saturday and Sunday with the intent to sell a consumer a vehicle on another date.

4.4 Disclosures under Deceptive Trade Practices Act (DTPA). DTPA lawsuits are based on "misrepresentations" (false or misleading statements). If a misrepresentation made to influence opinion or action was made to a consumer before the sale of the vehicle, the dealer is subject to DTPA action. The representation can be written or oral. Contracts or other agreements cannot waive the consumer's rights under the DTPA. It does not matter that the misrepresentation was made unknowingly, only that it was made

Common areas where dealers have encountered DPTA problems include the following:

- 1.) Odometer replaced or is non-operative.
- 2.) True miles are unknown.

- 3.) Mileage exceeds mechanical limits.
- 4.) Mechanical deficiencies.
- 5.) Electrical equipment deficiencies.
- 6.) Vehicle is stolen recovered, flood damaged, hail damaged, a salvage vehicle, rebuilt or reconditioned, etc.

The motor vehicle division does not sue dealers under the DTPA, but some business practices that in DTPA lawsuits by consumers will also trigger disciplinary action by the Motor Vehicle division under its statutory authority. Such disciplinary actions can occur before, during, or after a DTPA lawsuit by the consumer.

A note about flood-damaged vehicles: Weather events have created a large volume of vehicles with flood damage that could be sold to unsuspecting consumers and dealers. If a vehicle has a Texas flood-damaged title brand, it will show up on the VTR website at http://www.txdot.gov/drivers_vehicles/consumer_protection/flood_damaged.htm

There is a common misconception among dealers that if vehicle damage falls below a certain dollar amount, then the damage does not have to be disclosed to consumers. No law or court decision in Texas supports this dollar limit exemption. On the contrary, if a dealer fails to disclose damages of *any* dollar amount, he or she may be in violation of DTPA.

4.5 New Cars - Monroney (MSRP) Sticker. When a franchised dealer displays vehicles for sale, the Monroney Sticker must be displayed on the vehicle. Failure to do so will subject the dealer to possible state and federal civil penalties.

4.6 Used Cars - “As is” Buyers Guides. The Federal Trade Commission’s Used Car Rule requires dealers to post a Buyers Guide – known as an “as is” sticker – on every used vehicle displayed for sale, including consignment vehicles. The rule includes light-duty trucks, light duty vans, and vehicles that have (1) a gross vehicle weight rating (GVWR) of less than 8,500 pounds; (2) a curb weight of less than 6,000 pounds; or (3) a frontal area of less than 46 square feet. Exceptions to the Rule include (1) motorcycles; (2) any vehicle sold for scrap or parts if the dealer submit title documents to the appropriate state authority and obtains a salvage certification; or (3) agricultural equipment.

The sticker must be prominently and conspicuously on or in a vehicle when it is available for sale. This means it must be in plain view and both sides must be visible. You can hang the Buyer’s Guide (Guide) from the rear-view mirror inside the vehicle or on a side view mirror outside the car. You can attach it to a side window or place it under a windshield wiper. It may be removed for a test drive, but it must be replaced as soon as the test drive is over. A copy of this form is on page 4-23.

The Guide tells consumers: (1) Whether the vehicle is sold with a warranty or “as is”; (2) What percentage or repair costs a dealer will pay under the warranty; (3) To get all promises in writing; (4) To keep the Buyers Guide after the sale; (5) How long the warranty is enforceable; (6) The major mechanical and electrical systems on the vehicle as well as some of the major problem problems that consumers should look out for; (7) To have the car inspected before buying and (8) To keep the Buyer’s Guide for reference after the sale.

IF A DEALER CONDUCTS USED CAR DEALS IN SPANISH, A SPANISH LANGUAGE BUYER'S GUIDE MUST BE DISPLAYED. These are available from the same sources as the English versions.

Warranties. The Guide must show any agreed changes in warranty coverage. The Guide also becomes part of the sales contract and overrides any contrary provisions. For example, if the Guide says the car comes with a warranty and the contract says the car is sold “as-is,” the dealer must give the consumer the warranty described in the Guide.

a. As is – No Warranty. As-is” means that the buyer is assuming any risk that the vehicle is defective. If one buys a car “as-is” and the car breaks down minutes later, the repair is the buyer’s responsibility and not the dealer’s. When a dealer offers a vehicle “as-is,” the box next to that disclosure on the Guide must be checked. If the box is checked but the dealer promises to repair the vehicle or cancel the sale if the consumer is not satisfied, that promise should be written on the Guide. “As-is” does not prevent a dealer from being liable under the DTPA, and also does not necessarily avoid disciplinary action by the Motor Vehicle division for misrepresentations made to the purchaser.

b. Warranty. If a vehicle is offered with an express warranty, the box next to the heading “Warranty” must be checked and that section of the Guide must be completed, including:

- 1.) What percentage of parts and labor costs does the warranty cover?
- 2.) What is the deductible, if any?
- 3.) What systems are covered? For how long?
- 4.) What manufacturer’s warranty still applies, if any?

If the dealer and the consumer negotiate changes in the warranty, the changes must be written on the Guide.

c. Service contract. If a vehicle is offered with a service contract, the box next to the words “Service Contract” should be checked.

d. Required Disclosure. The dealer must put the following disclosure in all used car sales contracts:

"The information you see on the window form (Buyer's Guide) for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale."

Upon completion of a sale, the dealer **must give** the buyer the original or a copy of the Buyers Guide at the sale. **The Guide must reflect all final changes**

More details about the Buyer’s Guide can be obtained from a dealer’s guide at the FTC website: <http://www.ftc.gov/bcp/edu/pubs/business/autos/bus13.shtm> in English or <http://www.ftc.gov/bcp/edu/resources/forms/s-buyers.pdf> in Spanish or toll-free at 1-877-FTC-HELP. You may obtain copies of the Buyer’s Guide by downloading from the FTC site at <http://www.ftc.gov/bcp/edu/resources/forms/buyers.pdf>. On page 4-28 there is a very informative brochure that is reprinted from the Federal Trade Commission’s library that gives you even more information on the federal Used Car Rule.

4.7 Metal Dealer's Plates. Instead of obtaining regular metal plates through the county tax office for a vehicle that the dealer owns, operates, or permits to be operated on a public street or highway in the state, the dealer may apply for metal dealer's license plates (Dealer's Plate) for the vehicle if it is of the type the dealer is licensed to sell.

a. Expiration of Dealer Plates. These Dealer's Plates expire on the same day as the dealer's General Distinguishing Number and the full fee must be paid regardless of the date of the application for the plates. Most dealers purchase Dealer's Plates upon the renewal of their license.

b. One Plate Issued. Only one Dealer's Plate is issued and the plate should be displayed only in the rear license plate holder of the vehicle. Taping or propping up the plate in the rear window is not allowed. Though Texas law generally requires plates on the front and back of vehicles, law enforcement is aware that MVD only issues one Dealer's Plate.

c. Uses of Metal Dealer License Plates. Dealer's Plates may be used for the same purposes that a Dealer's Temporary Tag can be used such as demonstration test drives. Additionally the Dealer Plate may also be displayed on vehicles that are used for personal use by the dealer, family or employees.

A dealer who is licensed to sell only cars may use his dealer plate only on a car and not on a motorcycle or trailer. Also, any vehicle with Dealer's Plates must: (1) have a current inspection; (2) the title must be assigned into the dealer's name; and (3) Dealer's Plates may not be displayed on dealer service or work vehicles such as a vehicle carrying a load (such as a dealer's service vehicle used to haul parts back and forth); Vehicles used for towing and transporting other vehicles; Courtesy cars; Rental or lease vehicles; Dealer-owned vehicles loaned to schools; or Any boat trailer owned by a dealer that transports more than one boat.

A light truck is not considered a laden commercial vehicle when mounted with a camper unit or when towing a trailer for recreational purposes.

d. Metal Dealer's License Plate Log. The law requires a dealer to maintain a record of all metal dealer's plates issued to that dealer and each vehicle assigned a license plate. The log shall consist of:

- (1) the assigned Metal Dealer's License Plate number;
- (2) the make of the vehicle displaying the Dealer's Plate;
- (3) the vehicle identification number; and
- (4) the name of the person in control of the vehicle.

The dealer's log, as well as the titles for all vehicles assigned a metal license dealer's plate, shall be available at the dealer's licensed location for review by an MVD representative during normal working hours. Dealer's Plates, not accounted for, will be voided by MVD. A sample of a plate log is found on page 4-20.

4.71 Metal Plate Limits. Dealers are limited in the number of plates they may order depending on the type of license issued and the number of vehicles sold. New applicants for franchised motor vehicles and motorcycles are limited to five for the first year of their license. Franchised or independent travel trailer dealers, utility trailer or semi-trailer dealers,

independent motor vehicle dealers, independent motor cycle dealers, and independent mobility vehicle dealers are limited to two for the first year. Wholesale dealers may have one plate.

Upon renewal, a franchised motor vehicle dealer may obtain a total of 30 plates; a franchised motorcycle dealer may get a total of 10 plates; Independent motor vehicle dealers, independent motorcycle dealers, independent mobility vehicle dealers, franchised or independent travel trailer dealers, and utility trailer or semi-trailer dealer are eligible for a total of 3 plates. Wholesale dealers may have a total of one plate.

There are provisions under the plate limits rule found at 43 TAC §8.139 for dealers to obtain additional plates upon proof of sales. Any dealer who sells more than 200 vehicles in a year may have unlimited plates. If a dealer is selling less than 50 vehicles a year, they are entitled to an additional 1 plate; those selling 50 – 99 vehicles may obtain 2 additional plates; those selling 100 – 200 vehicles may get 5 additional plates. A wholesale dealer may get one additional plate upon proof they are regularly and actively engaged in the business.

If a dealer needs even more plates than allotted under the rule, in accordance to the number of vehicles they sell, a request for waiver of the plate limits may be submitted stating why the additional plates are necessary to the continuation of the applicant's business. Wholesale dealers may not apply for waiver of the dealer plate issuance restrictions.

4.72 Metal Converter's License Plates Metal Converter's License Plates (Converter's Plates) may be used only by the converter or the converter's employees on unregistered vehicles to:(1) demonstrate the vehicle, or cause the vehicle to be demonstrated, to a prospective buyer who is a franchised motor vehicle dealer or an employee of a franchised motor vehicle dealer; or (2) convey the vehicle or cause the vehicle to be conveyed: (A) from one of the converter's places of business in this state to another of the converter's places of business in this state; (B) from the converter's place of business to a place where the vehicle is to be assembled, repaired, reconditioned, modified, or serviced; (C) from the state line or a location in this state where the vehicle is unloaded to the converter's place of business; (D) from the converter's place of business to a place of business of a franchised motor vehicle dealer; or (E) to road test the vehicle.

Converter's Plates may be displayed only on the type of vehicle that the converter is engaged in the business of assembling or modifying. Converter's Plates shall be attached to the rear license plate holder of vehicles on which the plates may be displayed. These plates expire annually on the same day as the converter's license

When an unregistered new motor vehicle is sold to a converter, the selling dealer shall remove the dealer's temporary tag. The selling dealer may attach a buyer's temporary tag to that vehicle or the purchasing converter may display a converter's temporary tag or Converter's Plate on that vehicle.

A converter shall maintain a record of each Converter Plate issued to that converter that contains:

- (1) the assigned metal plate number;
- (2) the year and make of the vehicle to which the metal plate is affixed;
- (3) the vehicle identification number of the vehicle (VIN); and
- (4) the name of the person in control of the vehicle.

The converter's record shall be available at the converter's location during normal working hours for review by a representative of the department. Converter metal plates that cannot be accounted for shall be voided in the dealer's record and reported as missing to the department within three days of the date that the discovery is made. After a plate is reported as missing it is no longer valid.

4.8 Temporary Tags. Under the new Internet based system called Vision 21, dealers who hold a General Distinguishing Number license may issue dealer temporary tags, initial buyer's temporary tags, supplemental buyer's temporary tags, Internet-down temporary tags, and emergency temporary tags for each type of vehicle the dealer is licensed to sell. A converter may issue converter temporary tags. Dealers and converters are required by law to have Internet access at their place of business to connect to the temporary tag database. Vision 21 will be accessed through the TxDOT site <https://vision21.txdot.gov/login/klogin.aspx>.

Entry of false information into the Internet based system may subject the user to revocation of access, MVD civil penalties or license suspension, and/or criminal prosecution. No temporary tag may be placed on a vehicle without this specific number generated by the Vision 21 database.

a. Format. Dealers and converters may issue a temporary tag by any of the following methods:

- (1) manually copy the information provided from the database to pre-printed cardboard and have the information drawn in letters and numerals with a permanent thick black marking pen.
- (2) print the image of the information provided by the database on 6 inch by 11 inch cardboard.
- (3) print the image of the information provided by the database on a full 8 ½ inch by 11 inch sheet label and affix the label to a 6 inch by 11 inch cardboard.
- (4) print the image of the information provided by the database on a full 8 ½ inch by 11 inch piece of paper, affix the paper to a 6 inch by 11 inch cardboard by glue or tape so that it is completely adhered to the cardboard backing.
- (5) print the image of the information provided by the database on a full 8 ½ inch by 11 inch piece of paper and seal the tag and a cardboard backing in a 6 inch by 12 inch, 2 mil clear poly bag to protect the tag from the elements.

Information printed or completed on all temporary tags must be in black ink. Cardboard or cardboard backing material for temporary tags must be of a thickness and weight of no less than 65-pound cover stock. A 67-pound vellum has been found to also be satisfactory and is more economical. All temporary tags must be sealed in a 6 inch by 12 inch, 2 mil clear poly bag that covers the entire tag and must be displayed in the rear license plate holder of unregistered vehicles.

Display in the rear windows is no longer allowed. All printed information on a temporary tag must be visible and may not be covered or obstructed by any plate holder. Homemade tags are not permitted.

b. Dealer's Temporary Tag (formerly known as the black tag) Dealer Temporary Tags (dealer's tags) may be used by the dealer only to:

- (1) demonstrate the vehicle or cause the vehicle to be demonstrated to a prospective buyer for sale purposes only;
- (2) convey or cause the vehicle to be conveyed:
 - (A) from one of the dealer's places of business in this state to another of the dealer's places of business in this state;
 - (B) from the dealer's place of business to a place where the vehicle is to be repaired, reconditioned, or serviced;
 - (C) from the state line or a location in this state where the vehicle is unloaded to the dealer's place of business;
 - (D) from the dealer's place of business to a place of business of another dealer;
 - (E) from the point of purchase by the dealer to the dealer's place of business; or
 - (F) to road test the vehicle;
- (3) use the vehicle for or allow its use by a charitable organization or use the vehicle or allow its use in parades;
- (4) use on loaner vehicles.

A vehicle on the streets or highway with a dealer tag is exempt from state inspection requirements. A dealer who holds a wholesale motor vehicle auction GDN may display its dealer's tags on any vehicles that are transported to or from the licensed auction location by a bona fide employee or agent of the auction.

Dealer tags may be displayed only on the type of vehicle for which the general distinguishing number is issued and for which a dealer is licensed to sell. A dealer's tag may not be used to operate a vehicle for the personal use of a dealer or a dealer's employee. Dealer tags may not be displayed on dealer service or work vehicles or a laden commercial vehicle; Vehicles used for towing and transporting other vehicles; courtesy cars; rental or lease vehicles; dealer-owned vehicles loaned to schools; or any boat trailer owned by a dealer that transports more than one boat.

A vehicle bearing a dealer tag is not considered to be a laden commercial vehicle when it is towing another vehicle bearing the same dealer's tags, and both vehicles are being conveyed from the dealer's place of business to a licensed wholesale auto auction or from a licensed wholesale auto auction to the dealer's place of business.

When an unregistered vehicle is sold to another dealer, the selling dealer shall remove its dealer's tag. The selling dealer may attach a buyer's temporary tag to the vehicle or the purchasing dealer may display its dealer's tag or dealer's plate on the vehicle. If a vehicle is consigned from one dealer to another, the vehicle must display the temporary tag of the dealer to which that vehicle was consigned.

A dealer's tag may be issued by a dealer to a specific vehicle or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer. A dealer's tag can be issued for any length of time up to 60 days. In the case of a vehicle specific tag, only one tag per vehicle at a time may be issued.

A dealer who issues a dealer's tag to a specific vehicle must ensure that the following information is placed on the tag: (1) the vehicle-specific number from database; (2) the year and make of vehicle; (3) the vehicle identification number (VIN) of the vehicle; and (4) the month, day, and year of the tag's expiration.

A dealer who issues a dealer's tag to an agent must ensure that the following information is placed on the tag: (1) the agent-specific number from the database; and (2) the month, day, and year of the tag's expiration.

Dealers should make an effort to guard zealously the dealer's tags. Such tags may be stolen and used by criminals to prevent identification of vehicles used in crimes.



Dealer Temporary Tag – Authorized Agent Tag



Dealer Temporary Tag – Vehicle Specific Tag

c. Buyer's Temporary Tag (formerly red tag) A temporary buyer's tag (Buyer's Tag) may be displayed only on a vehicle that may be operated upon the public streets and highways and for which a sale has been consummated. The dealer must place a Buyer's Tag on any new or used vehicle sold by the dealer, except for a vehicle sold in a wholesale transaction in which the purchasing dealer places its own dealer temporary tag on the vehicle. Buyer's Tags are valid for a period not to exceed 21 calendar days including the date the vehicle is sold and may only be displayed on a vehicle actually sold by the dealer. Only one Buyer's Tag may be issued.

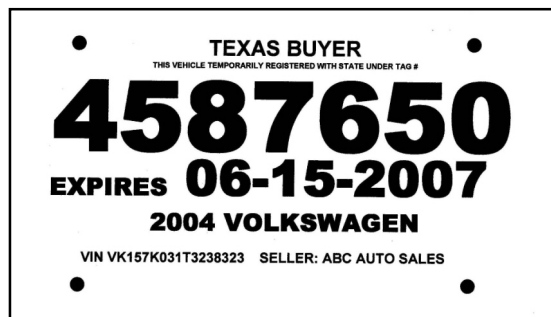
The dealer must ensure that the following information is placed on a buyer's or supplemental buyer's tag that the dealer issues: (1) the vehicle-specific number obtained from database; (2) the year and make of vehicle; (3) the vehicle identification number (VIN) of the vehicle; and (4) the month, day, and year of the tag's expiration.

A dealer must provide a buyer's temporary tag receipt to the buyer of each vehicle to which a Buyer's Tag is issued regardless of whether the tag is issued in the ordinary course of

business or is an Internet-down or emergency tag. The dealer may print the image of the receipt issued from the database or construct the form using the same information. The dealer must have the buyer sign the form and instruct the buyer to keep a copy of the receipt in the vehicle until the vehicle is registered in the buyer's name and metal plates are affixed to the vehicle. The receipt must include the following information: (1) the issue date of the buyer's tag; (2) the year, make, model, body style, color, and vehicle identification number (VIN) of the vehicle sold; (3) the vehicle-specific tag number; (4) the expiration date of the tag; (5) the date of the sale; (6) the name of the issuing dealer and the dealer's license number; and (7) the buyer's name and mailing address. The dealer must keep a copy of the receipt signed by the buyer in the dealer's sales records.

With each initial Buyer's Tag issued, the dealer must provide the buyer with a copy of the laws regarding temporary tags in the form of the Notice to Buyer approved by the department and available through the database for temporary tags. The buyer must sign the dealer's copy of the buyer's receipt, acknowledging receipt of a copy of the Notice to Buyer. The dealer must keep a copy of the receipt signed by the buyer in the dealer's sales records.

Lienholders are required to release liens within 10 days of payoff. If the dealer has paid off a lien and cannot obtain the release of lien from the lienholder, the dealer should notify MVD of the lienholder's tardiness and then issue to the buyer the Buyer's Supplemental Tag upon expiration of the Buyer's Tag. If a dealer is unable for other reasons beyond his control to get a title transferred within 21 calendar days from the date of sale, then the dealer should obtain for the buyer a 30-day permit from VTR.



Buyer's Temporary Tag

d. Buyer's Supplemental Tag (formerly blue tag) Buyer's Supplemental Tags are to be issued only under one set of circumstances. If a dealer, after paying off a lien, has been unable to obtain the necessary documents to obtain permanent metal license plates on behalf of the buyer because the lienholder has not provided a release of lien within the allowed ten days, the dealer may issue a Buyer's Supplemental Tag. Within 20 working days of the date of sale the dealer must access the database and renew the vehicle-specific number previously issued. The Buyer's Supplemental Tag is valid for a period that does not exceed 20 working days after the date of its issuance. The dealer may not issue more than one supplemental buyer's tag for a vehicle. If a dealer is unable to get a title transferred within the period of time covered by the Buyer's Supplemental Tag, then the dealer should obtain for the consumer a 30-day permit from VTR.



Buyer's Supplemental Tag

e. Converter's Temporary Tags. Converter's Temporary Tags (Converter's Tags) may be used only by the converter or the converter's employees on unregistered vehicles to:(1) demonstrate the vehicle, or cause the vehicle to be demonstrated, to a prospective buyer who is a franchised motor vehicle dealer or an employee of a franchised motor vehicle dealer; or (2) convey the vehicle or cause the vehicle to be conveyed: (A) from one of the converter's places of business in this state to another of the converter's places of business in this state; (B) from the converter's place of business to a place where the vehicle is to be assembled, repaired, reconditioned, modified, or serviced; (C) from the state line or a location in this state where the vehicle is unloaded to the converter's place of business; (D) from the converter's place of business to a place of business of a franchised motor vehicle dealer; or(E) to road test the vehicle. Prospective buyers who are employees of a franchised dealer or a converter may operate a vehicle displaying converter's temporary tags during a demonstration.

Converter's Tags may be displayed only on the type of vehicle that the converter is engaged in the business of assembling or modifying. A vehicle being conveyed while displaying a converter's temporary tag is exempt from vehicle inspection requirements. Converter's Tags may not be used to operate a vehicle for the converter's or a converter's employee's personal use.

When an unregistered new motor vehicle is sold to a converter, the selling dealer may attach a Buyer's Tag to the vehicle or the purchasing converter may display a Converter's Tag or Converter Plate on the vehicle.

A Converter's Tag may be issued by a converter to a specific vehicle or to a converter's agent who is authorized to operate a motor vehicle owned by the converter. A Converter's Tag must show its expiration date which may not exceed 60 days after its date of issuance.

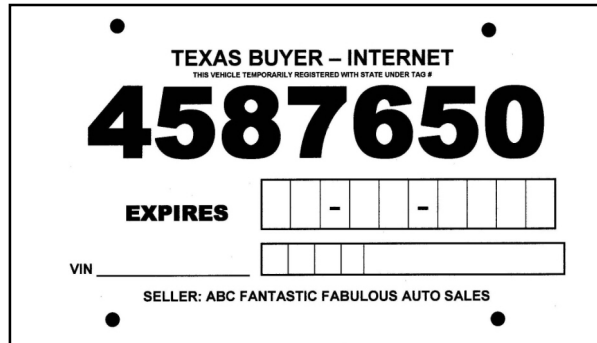
A converter who issues a Converter's Tag to a specific vehicle must ensure that the following information is placed on the tag: (1) the vehicle-specific number from database; (2) the year and make of vehicle; (3) the vehicle identification number (VIN) of the vehicle; and (4) the month, day, and year of the tag's expiration.

A converter who issues a Converter's Tag to an agent must ensure that the following information is placed on the tag: (1) the agent-specific number from the database; and (2) the month, day, and year of the tag's expiration.



Converter's Temporary Tags

f. Advance Numbers, Internet-down Buyer's Temporary Tags. A dealer may obtain an advance supply of specific numbers in order to issue Buyer's Tags when the dealer is unable to access the Internet. When a dealer is unable to access the Internet at the time of sale, the dealer must complete and sign the dealer's copy of the buyer's receipt form and enter the required information on the sale into the database not later than the close of the next business day. The Internet-down Buyer's Temporary Tag must be in the format as described in Section 4.8(a) above.



Internet-down Buyer's Temporary Tags

g. Advance Numbers, Emergency Buyer's Temporary Tags. A dealer may obtain a supply of specific numbers from the database to issue temporary buyer's tags if the dealer is unable to access the Internet due to an emergency. Such a number may be used on buyers' tags only if a hurricane, flood, or other event prohibits the supply of power or electronic communications to the dealer's business for longer than two days. The dealer must complete and sign the dealer's copy of the buyer's receipt form and enter the required information on the sale into the database not later than 24 hours after the time that power or communication is restored. The Emergency Buyer's Temporary Tag must be in the format as described in Section 4.8(a) above.



Emergency Buyer's Temporary Tags

4.9 Logs for the Temporary Tags. Temporary tags are no longer required to be logged with the exception of the Emergency and Internet Down tags. The dealer should keep a completed receipt on these tags in their records (with the buyer's signature) as with the regular buyer's tag. This is especially important until the information is logged into the database. These records become part of those records required to be kept by dealers/converters for MVD inspection.

4.10 The 30-Day Permit. Many times it is not the dealer's fault that a title has not appeared. Any time the dealer cannot get a title transferred to a buyer within the 21 calendar days from the date of sale, and there is no issue with a lienholder, the dealer usually can keep the buyer happy by obtaining a 30-day permit. The permit is available from the local VTR office upon payment of \$30.00 and showing of the consumer's financial responsibility (liability insurance).

4.11 Other Restrictions On Tags And Plates. A franchised dealer may only use temporary tags and metal dealer license plates on used vehicles and new motor vehicles for which they are licensed to sell. A chart that summarizes for dealers the uses and prohibitions of plates and tags can be found at page 4-20.

4.12 Transported Vehicles. Each motor vehicle being transported using the full mount method, the saddle mount method, the tow bar method, or any combination of those methods in accordance with Transportation Code, §503.068(d), must have a dealer's or converter's temporary tag or a buyer's temporary tag, whichever is applicable, affixed to that vehicle. If the vehicle being transported is unable to qualify for registration because it is of a type that is prohibited from operating upon the public streets and highway (i.e., off-highway vehicle or self-propelled machine), a tag shall be displayed that states in bold letters "For Off Highway Use Only."

4.13 Special Exception for Auctions. A wholesale motor vehicle auction may use dealer's tags and dealer plates. The auction may use buyer's tags on those vehicles which they have bought, taken assignment on and are selling for themselves at the auction. Sometimes auctions will provide a ferry service for dealers to ferry vehicles to and from the auction for dealers. In this instance, auctions are allowed to use their own dealer tags even though the vehicles are not in the auction's name.

4.14 Manufacturer's License Plates. Instead of registering a new vehicle that a manufacturer or distributor intends to test on a public street or highway or to loan to a consumer during warranty repair to a consumer's vehicle, the manufacturer may apply for manufacturer's license plates for the vehicle. A commercial motor vehicle with manufacturer's license plate attached may not carry a load.

4.15 Public Auctions. A dealer may sell his own inventory by way of an auction held on the dealer's licensed lot. An Auctioneer licensed by the Department of Licensing and Regulation must conduct the auction in accordance with the Texas Auctioneer Law. The auctioneer's name and license number must appear in any advertisement.

It is not legal for several dealers to get together and hold a public auction on one of their lots. This is selling off site which is prohibited by the Transportation Code.

Some dealers promote themselves as a public auction and hold regular auctions to sell to the public. These dealers must take assignment of any vehicles sold through their auction and must transfer the titles to the purchaser before the 21st day after the sale.

4.16 Wholesale Auctions. Only a person who possesses a wholesale motor vehicle auction license may hold a wholesale or dealer-to-dealer auction, which must be held only at the location for which the auction is licensed. The vehicles must only be auctioned off to licensed dealers, not the public. Some franchised dealers have a wholesale auction license and hold regularly scheduled auctions and invite dealers to bring their vehicles to the lot for sale to other dealers. This is legal, but the auction must be advertised in the dealer's name, not the name of the company that is conducting the auction.

4.17 Wholesale Auction Procedures. Most wholesale auctions have their own procedures and guidelines. A dealer should contact the different auctions in the area and inquire about the auction's particular requirements. A dealer going to an auction for the first time will generally be required to fill out an application, giving information about the dealer's financial condition and that of the dealership. Be prepared to present the original of your dealer license for verification. Most auctions will provide the dealer with a picture ID and a list of the auction's procedures. The most common auction procedures observed by MVD are: (1) All representations or guarantees are that of the seller. (2) All transactions are between buying and selling dealers. (3) Dealers must register with the auction and obtain an auction I.D. card before conducting business. (4) Some auctions may allow a dealer to establish a line of credit. (5) The auctions are for licensed motor vehicle dealers and their authorized agents only. A dealer may not take customers to an auction to buy a vehicle, nor can a dealer lend its GDN to an individual. The dealer/owner may be able to take one guest; however, this person may not buy a vehicle (check with the auction on bringing a guest). (6) Dealers may be able to preview vehicles before the auction begins. The hours may vary at each auction so check with the auction that you plan to attend.

The auction will announce the condition of the vehicle as told to them by the seller. This may be done verbally or through the use of a light system, i.e. red, green and yellow, to indicate the condition of the sale. Dealers should check with each auction regarding the different categories of the light system.

Some auctions may have a separate "damaged and disabled" sale. This could include units that have frame damage, frame damage repair, flood damage, missing emissions, broken odometers, etc. If a motor vehicle has a salvage title or is deemed at total loss, both the buyer and the seller must hold a salvage dealer license. If a dealer buys a vehicle and believes it was misrepresented, arbitration may be available at the auction. Check the auction arbitration policy.

4.18 Getting a Title From the Auction. Once a dealer is awarded the bid in an auction, the vehicle is released to that dealer. In most cases, there is a 21-30 working-day policy in getting the title. MVD strongly advises dealers to wait until they have received the title before they sell that vehicle. After the vehicle is sold, sometimes the title is lost, or the title may be a salvage title, or marked as a reconditioned vehicle. A dealer who has sold such a vehicle before receiving the title is likely to be in trouble with not only the buyer, but also with MVD because that dealer has sold a vehicle without a title and has failed to timely apply after a sale for a title.

The dealer who sells a vehicle through the auction and has not provided the title in a timely manner would also be in violation of selling a vehicle without the title.

Several steps must occur before the dealer can take possession of the vehicle and sell it to a retail consumer: (1) The dealer's draft must clear. (2) Lien holder and/or selling dealer is paid. And (3) Title is released to the auction, and the auction releases the title to the dealer. [Note: Titles are not reassigned to the auction. The title must be reassigned directly to the purchasing dealer.]

The auction may have a buyback policy if the auction cannot get the title to the buyer within the 21-30 working-day period.

4.19 Dealer Agents. Dealers are responsible for the actions of their employees and agents. Under the Dealer Agent Rule, a dealer must give anyone dealing with his employees or agents in a wholesale situation, a letter of written authority of that agent. The dealer's authorization will be valid until either the termination of that dealer's license or until the dealer revokes the authority in writing. Once a dealer gives such written authority, the agent may buy and sell vehicles at auctions and to other dealers in the name and under the auspices of the dealer's license. The Dealer Agent Rule found at 43 TAC 8.148, sets out what is required in the letter of authority. Some wholesale auctions have their own forms for agent authorization. These forms will take the place of the required letter on dealership letterhead if the form contains all the requirements of the rule.

Under the Dealer Agent Rule, an agent may not pay for a vehicle in cash as all transactions must be in the name of the dealer using the dealership checks, drafts through the dealership financial entity, or cashier's checks drawn on the dealership accounts. Further, auctions and other dealers may not give the agent the title to vehicles, but must deliver the titles to the dealer at his dealership.

4.20 Shows and Displays. The general rule is that only *new* motor vehicles may be shown or displayed off the licensed premises and then only with the written permission of the MVD. As described below, there are many different rules for the different types of vehicles that can be shown off-site. To be absolutely sure of all requirements, dealers are urged to call or write MVD well in advance of any show or display to ascertain if they may participate in that particular event. Some non-selling, association-sponsored shows are self-permitting. A promoter should contact MVD for the special forms for self-permitting shows.

a. Used Motor Vehicles. There is no provision in the law for used motor vehicles to be displayed in a show or exhibited off the licensed premises. There are exceptions under the law for certain types of non-motorized vehicles like used trailers.

b. New Motor Vehicles. There are three types of shows or displays at which motor vehicles may be displayed:

(1) Off-site display – A static display in which one dealership participates, for example, a new Ford Mustang displayed at the local airport. Displays may be approved from one day to 6 months, depending on the purpose of the display and/or location. No selling is permitted and no personnel are present.

(2) Auto show – Usually a one-day or weekend event with participation from multiple dealers, such as a citywide car show. No selling is permitted.

(3) RV show – When three or more RV dealers participate in a show at which the dealers are authorized to sell vehicles, such as an annual RV/Camper show. This type of show is exclusive for RV dealers only. Other new motor vehicles are only approved for display at such a show on a case-by-case basis, i.e., a new Saturn on display at an RV show (MVD requires such displays to post “Display Only” signs.) Travel trailers are allowed to participate in such shows, but travel trailer dealers will not be considered dealers for the purposes of meeting the three dealers requirement.

c. Qualifications for approval of an off-site show or display: All dealers and promoters must complete appropriate MVD show or display authorization forms, which must be received by MVD at least 30 days before the show. The location of the show will be considered the market area of the closest dealer for the line-make for which the dealer is licensed, unless it is a motor home show. If the dealer is not the closest dealer, then the dealer making the application must obtain waivers from the closer dealers and provide copies to the agency. With such a waiver, the dealer may obtain approval from MVD as long as the dealer meets all other requirements. Displays may not be held at businesses with an auto buying service, and dealers must leave MSRP stickers on the vehicles.

d. Untimely off-site show or display request. No exceptions for tardiness are authorized by law, and none will be granted by MVD. If a request is not timely and no other provision of the law would be violated, MVD will simply refrain from approving or disapproving the application for show or display. If MVD receives a complaint, then MVD will investigate the matter. The dealer’s attempt to file an untimely request will be considered in imposing sanctions arising from any complaint for not obtaining MVD show or display approval.

e. Forms Required for Shows or Displays. Depending on the type of show or display, the show promoter and every dealer who is to participate, must complete and sign the required application forms. The show promoter is required to file an application that lists information about the show and must verify that any participant is licensed in Texas. Each dealer that participates must be the closest dealer to the show locale or have a signed waiver from the closest dealer. If admission tickets are required, two tickets for admission to the show must be provided to the MVD so investigators may enter and monitor compliance. Non-selling show attendees may qualify for the self-permitting process which just requires registering with the division.

The TxDOT website has information and forms available for downloading for shows and displays. Be sure and check at this site and read the provisions carefully. If you qualify for a self-permitting show, you may download the form and file it with the MVD for easy compliance with the show and display rules. See these forms at http://www.txdot.gov/txdot_library/forms/business/vehicle_dealers/vehicle_dealer_shows.htm.

f. Special Rules for Motorhome Shows. Under the law motorhomes may be sold at shows, but there must be at least three motor home dealers, representing 3 different lines/ makes

in the show. No dealer located outside of a 70 mile radius of the show site representing the same line can participate without written permission of that like-line dealer within the 70 mile radius of the show site. The show may not last longer than 6 days, and all participating dealers must suspend sales operations on the same day if the show extends over a consecutive Saturday and Sunday to remain in compliance with the blue law. All motor home shows in the same county must be scheduled at least 90 days apart.

g. Trailers. Trailers, both new and used, may be displayed, shown and sold at shows that are regularly scheduled events. There must be at least two different trailer dealers at the show to qualify for this type of event.

h. Fire-fighting Vehicles and Ambulances. In addition to motor homes, fire-fighting vehicles and ambulances may also be sold at shows.

i. Advertising a Show. All advertising of any show or display must comply with MVD advertising rules.

j. Location of the Show. A show may not be held on a business that has auto buying programs or financial institution's premises during normal business hours. A financial institution consists of locations where auto loans are approved, such as a bank, credit union, etc. Shows proposed to be held at locations of businesses that have auto buying programs will not be approved.

4.21 Lemon Law Disclosure on New Vehicles. When a franchised dealer sells a new vehicle, the dealer is required to provide the consumer the requisite Lemon Law Notice. Such a notice is found on page 11-5. The content of this form is proscribed by the Motor Vehicle Division and should be given to the consumer at the same time the buyer signs the sales contract.

4.22 Foreign Buyer Rule. Any dealer who sells motor vehicles to foreign buyers are required to verify the identity of the buyer and stamp the title showing the vehicle as an exported vehicle.

a. Verifying Identity of Buyer. A dealer should obtain a copy of the drivers license, passport, or other picture identity of the buyer confirming the foreign residence. These copies should become part of the dealer's sales file.

b. Stamping the Title. A dealer should obtain a rubber stamp containing the dealer license number and the words "For Export Only." The stamp should be placed on the front of the title where it is not covering up any information and should also be placed on each blank reassignment form on the back of the title. See Page 4-25 for a sample of the stamp and where to stamp a title.

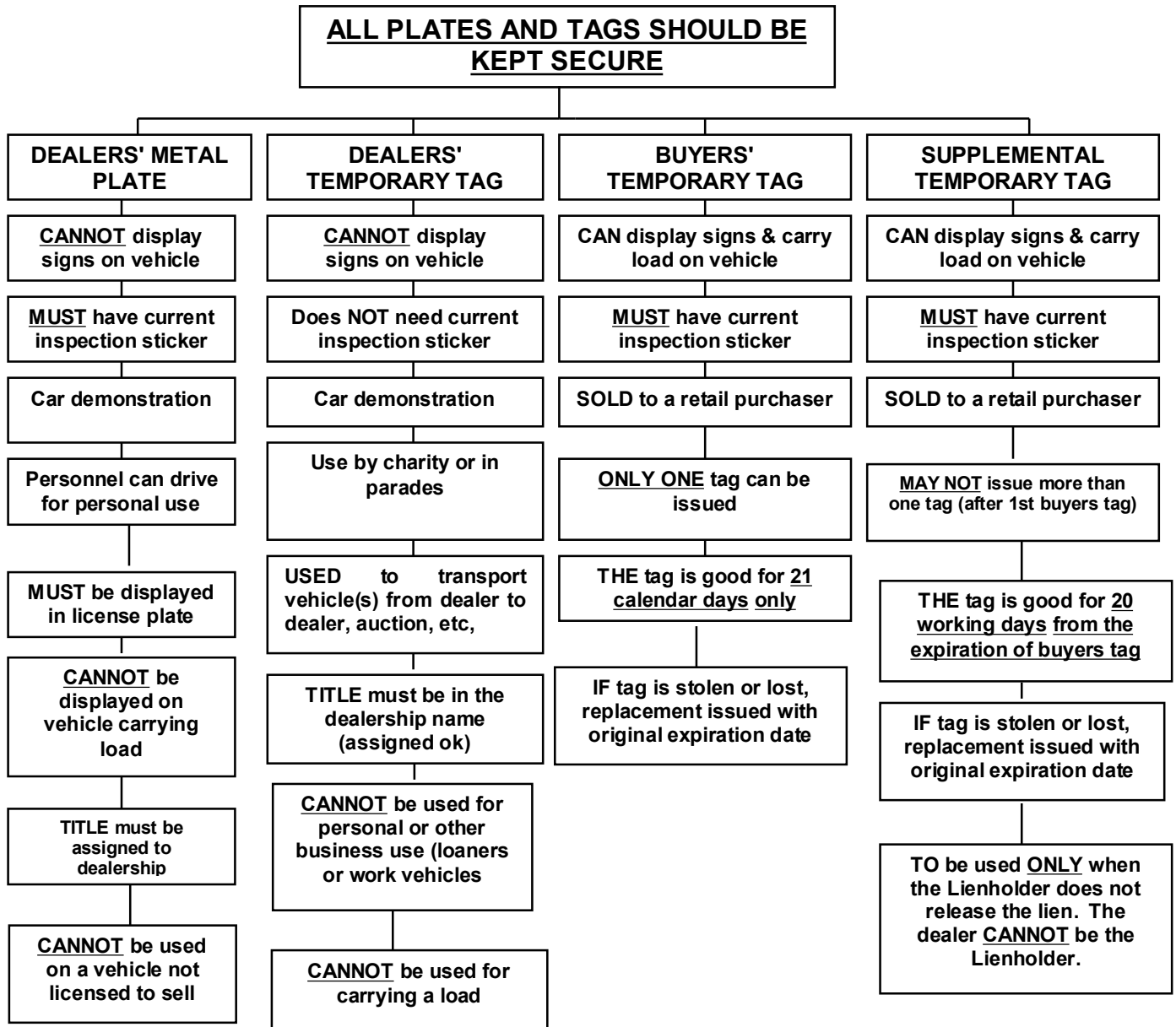
4.23 Displaying the License. All licensees must display their license in a manner that makes the license easily readable by the public in a conspicuous place in the office of each place of business. If a license covers more than one location then a copy of the original license may be displayed in the supplemental locations.

4.24 License Plate Holders. As of September 1, 2003, a person may not attach an illuminated device, sticker, decal, emblem or other insignia that is not authorized by law and that interferes with the readability of the letters, or number on the plate or the name of the state in which the vehicle is registered. Care should be taken when dealers affix plate holders to a sold vehicle that the edges of the plate holder do not obscure the name of the state, the license numbers, or other original design feature of the plate. Customers will not be happy with the free plate holder you furnished if they pay a \$200 fine because the plate holder is illegal.

4.25 Moving the Dealership. All licensees are required to keep the Department advised of their most current address. MVD is to be advised within ten (10) days of any move. Failure to do so may result in the failure to receive important mail from MVD such as license renewals or important notices about changes in the law. See §3.15 (Licensing) about amending the license because of moving, adding a new location or going out of business.

4.26 Trailer Dealers and VINs. With the advent of Vision 21, the department wants to start collecting VINs on trailers. While this is not mandatory at this time, it behooves trailer dealers to protect their customers' interest in the trailers they have bought by providing an identifying VIN on the trailers. This may become mandatory in the future so all trailer dealers need to become familiar with this procedure. VTR has outlined the procedure for obtaining a trailer VIN in a Registration and Title Bulletin to the County Tax Assessor-Collectors dated September 2, 2005. This bulletin can be seen on page 4-26 of this section.

DEALER PLATE & TAG USAGE



A SAMPLE METAL DEALER PLATE LOG:

[illegible]

Dealers with a large amount of plates may also want to add columns for dates the stickers expire and a signature line for the driver of the vehicle.

CONSIGNMENT TO DEALERSHIP

The undersigned owner of the motor vehicle described herein, hereby certifies that he has delivered on consignment to the dealership named below a vehicle that he legally owns and that said dealership has the owner's authority to offer such vehicle for sale at the dealer's licensed location. Owner certifies and guarantees that the vehicle is free and clear from any liens other than that may appear on the face of the title, or that he has disclosed herein. Owner has shown the dealer the title to the vehicle. Owner further states that he is not a wholesale dealer.

Dealer agrees that it will offer the herein described vehicle for sale on its legally licensed premises under the terms and conditions agreed to between the Owner and Dealership as set out herein. Dealership further agrees that it will pay the owner any amounts owed from the sale no later than _____ days from the date of sale. Dealership understands that it is responsible for registering and titling the vehicle and paying any Vehicle Inventory Tax due on the vehicle.

VEHICLE Make: _____ Year Model: _____ Body Style: _____

License Number: _____ Vehicle Identification Number: _____

DEALER Name: _____

Licensed Address: _____

Phone Number: _____ Fax: _____ GDN: _____

OWNER Name: _____

Address: _____

Daytime Phone Number: _____ Evening Phone Number: _____

TERMS OF CONSIGNMENT:

This consignment begins on _____ and terminates on _____

Sales price (set amount or minimum) _____

Consignee to pay owner ____ days after the sale.

Agreed commission (set amount, percentage or over net) _____

Fees owner agrees to pay (if any): _____

Liens (if any): _____

Signature of Owner

Signature of Dealer

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE

MODEL

YEAR

VIN NUMBER

DEALER STOCK NUMBER (optional)

WARRANTIES FOR THIS VEHICLE:

☐ AS IS-NO WARRANTY

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about this vehicle.

☐ WARRANTY

—FULL —LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the **dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.**

SYSTEMS COVERED:

DURATION:

— SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price and exclusions. If you buy a service contract within **90 days of the time of sale, state law "implied warranties"** may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in motor vehicles.

Below is a list of some major defects that may occur in used motor vehicles.

Frame & Body

Frame-cracks, corrective welds, or rusted through
Dog tracks-bent or twisted frame

Engine

Oil leakage, excluding normal seepage
Cracked block or head
Belts missing or inoperable
Knocks or misses related to camshaft lifters and push rods
Abnormal exhaust discharge

Transmission & Drive Shaft

Improper fluid level or leakage, excluding normal seepage
Cracked or damaged case which is visible
Abnormal noise or vibration caused by faulty transmission or drive shaft
Improper shifting or functioning in any gear
Manual Clutch slips or clatters

Differential

Improper fluid level or leakage, excluding normal seepage
Cracked or damaged housing which is visible
Abnormal noise or vibration caused by faulty differential

Cooling System

Leakage including radiator
Improperly functioning water pump

Electrical System

Battery leakage
Improperly functioning alternator, generator, battery, or starter

Fuel System

Visible leakage

Inoperable Accessories

Gauges or warning devices
Air conditioner
Heater & Defroster

Brake System

Failure warning light broken
Pedal not firm under pressure (DOT spec.)
Not enough pedal reserve (DOT spec.)
Does not stop vehicle in straight (DOT spec.)
Hoses damaged
Drum or rotor too thin (Mfgr. specs.)
Lining or pad thickness less than 1/32 inch
Power unit not operating or leaking
Structural or mechanical parts damaged

Steering System

Too much free play at steering wheel (DOT specs.)
Free play in linkage more than ¼ inch
Steering gear binds or jams
Front wheels aligned improperly (DOT specs.)
Power unit belts cracked or slipping
Power unit fluid level improper

Suspension System

Ball joint seals damaged
Structural parts bent or damaged
Stabilizer bar disconnected
Spring broken
Shock absorber mounting loose
Rubber bushings damaged or missing
Radius rod damaged or missing
Shock absorber leaking or functioning improperly

Tires

Tread depth less than 2/32 inch
Sizes mismatched
Visible damage

Wheels

Visible cracks, damage or repairs
Mounting bolts loose or missing

Exhaust System

Leakage

DEALER

ADDRESS

SEE FOR COMPLAINTS

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of federal law (16 C.F.R. 455).

ILLUSTRATION OF WHERE TO PLACE "FOR EXPORT ONLY" STAMP

TEXAS CERTIFICATE OF TITLE

ORIGINAL

VEHICLE IDENTIFICATION NUMBER: RA- [REDACTED] YEAR MODEL: 1979 MAKE OF VEHICLE: TOYT BODY STYLE: 2D
 DOCUMENT NUMBER: 0572093511 DATE TITLE ISSUED: 03/06/96
 MODEL: [REDACTED] MFG. CAPACITY IN TONS: [REDACTED] WEIGHT: [REDACTED] LICENSE NUMBER: [REDACTED]
 PREVIOUS OWNER: 2600
 OWNER: [REDACTED]
 DALLAS, TX 75224
 SIGNATURE OF OWNER/AGENT MUST BE HERE
 [REDACTED]
 UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS A VIOLATION OF STATE LAW TO SIGN THE NAME OF ANOTHER PERSON ON A CERTIFICATE OF TITLE OR OTHERWISE SIGN FALSE INFORMATION ON A CERTIFICATE OF TITLE.
 DATE OF LIEN: NONE 1ST LIENHOLDER: [REDACTED] 1ST LIEN RELEASED: [REDACTED] DATE: [REDACTED]
 DATE OF LIEN: [REDACTED] 2ND LIENHOLDER: [REDACTED] 2ND LIEN RELEASED: [REDACTED] DATE: [REDACTED]
 DATE OF LIEN: [REDACTED] 3RD LIENHOLDER: [REDACTED] 3RD LIEN RELEASED: [REDACTED] DATE: [REDACTED]
 IT IS HEREBY CERTIFIED THAT THE PERSON HEREIN NAMED IS THE OWNER OF THE VEHICLE DESCRIBED ABOVE WHICH IS SUBJECT TO THE ABOVE LIENS.
 RIGHTS OF SURVIVORSHIP OWNERSHIP AGREEMENT
 WE, THE HUSBAND AND WIFE WHOSE SIGNATURES APPEAR HEREON, HEREBY AGREE THAT THE OWNERSHIP OF THE VEHICLE DESCRIBED ON THIS CERTIFICATE OF TITLE SHALL FROM THIS DAY FORWARD BE HELD JOINTLY AND IN THE EVENT OF DEATH OF EITHER THE HUSBAND OR THE WIFE, THE OWNERSHIP OF THE VEHICLE SHALL REST IN THE SURVIVOR.
 SIGNATURE OF SELLER/AGENT [REDACTED]
 SIGNATURE OF BUYER [REDACTED]
 DO NOT ACCEPT TITLE SHOWING ERASURE, ALTERATION, OR MUTILATION.

On the front of the title where no information is covered

WHEN VEHICLE IS SOLD, TITLE HOLDER MUST ASSIGN AND FURNISH THIS TITLE, CURRENT LICENSE RECEIPT, AND SALES TAX AFFIDAVIT TO THE PURCHASER WHO MUST FILE APPLICATION WITH COUNTY TAX ASSESSOR-COLLECTOR WITHIN 20 WORKING DAYS TO AVOID \$10 PENALTY.

FEDERAL AND STATE LAW REQUIRES THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT.

The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:

Name of Purchaser: Jose Diaz 123 Matamoros Street City: Nuevo Laredo State: Mexico Zip: [REDACTED]
 I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:
☐ 1. The mileage stated is in excess of its mechanical limits.
☐ 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY.
 Date of Sale: 1/22/02 Odometer Reading (Miles): [REDACTED]
 I am aware of the above odometer certification made by the seller/agent.
 Signature of Seller/Agent: [REDACTED] Printed Name (same as signature): Jose Diaz
 Signature of Buyer/Agent: [REDACTED] Printed Name (same as signature): [REDACTED]

FOR EXPORT ONLY

P12345A

The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:

Name of Purchaser: [REDACTED] City: [REDACTED] State: [REDACTED] Zip: [REDACTED]
 I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:
☐ 1. The mileage stated is in excess of its mechanical limits.
☐ 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY.
 Date of Sale: [REDACTED] Odometer Reading (Miles): [REDACTED]
 I am aware of the above odometer certification made by the seller/agent.
 Agent's Signature: [REDACTED] Printed Name (same as signature): [REDACTED]
 Signature of Buyer/Agent: [REDACTED] Printed Name (same as signature): [REDACTED]

FOR EXPORT ONLY

P12345A

The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:

Name of Purchaser: [REDACTED] City: [REDACTED] State: [REDACTED] Zip: [REDACTED]
 I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:
☐ 1. The mileage stated is in excess of its mechanical limits.
☐ 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY.
 Date of Sale: [REDACTED] Odometer Reading (Miles): [REDACTED]
 I am aware of the above odometer certification made by the seller/agent.
 Agent's Signature: [REDACTED] Printed Name (same as signature): [REDACTED]
 Signature of Buyer/Agent: [REDACTED] Printed Name (same as signature): [REDACTED]

FOR EXPORT ONLY

P12345A

LIENHOLDER TO BE RECORDED AND SHOWN ON NEW TITLE:
 1ST LIEN IN FAVOR OF (NAME & ADDRESS): [REDACTED]

On the back of the title in any blank

September 2, 2005
Registration and Title Bulletin #094-05
Policy and Procedure

TO: All County Tax Assessor-Collectors
SUBJECT: Assigned Serial Numbers for Homemade/Shopmade Trailers and Semitrailers

1.1. PURPOSE

To clarify the requirements for owners of homemade or shopmade trailers and semitrailers to obtain an assigned serial number.

DETAILS

All vehicles that are titled are required to have a serial number or vehicle identification number (VIN). An assigned serial number is not required for non-titled, homemade or shopmade:

- trailers that have an empty weight of 4,000 pounds or less
- semitrailers that have a gross weight of 4,000 pounds or less
- farm trailers or farm semitrailers that have a gross weight of 34,000 pounds or less, unless the owner chooses to apply for a title for a farm semitrailer that has a gross weight of over 4,000 pounds and not more than 34,000 pounds

An owner may choose to have a serial number assigned to a non-titled trailer, semitrailer, farm trailer, or farm semi-trailer for identification purposes and to aid in the recovery of their property in the event that it is stolen. If an assigned serial number is required (titled), or the customer chooses to obtain an assigned serial number(non-titled), the attached procedures should be followed in order to obtain an assigned serial number. If the owner of a non-titled trailer or semitrailer chooses to not have a serial number assigned, a Form VTR-68-A executed by law enforcement is not required to be submitted with the application for registration.

The Motor Vehicle Title Manual has been revised to reflect this information and will be distributed at a later date.

COUNTY ACTION

Please disseminate this information on the requirements for assigned serial numbers for non-titled trailers, semitrailers, farm trailers and farm semitrailers to your offices and customers.

CONTACT

If you have any questions or need any additional information, please contact your local Vehicle Titles and Registration Division Regional Office. You may also call me at (512) 465-7570. Thank you very much.

Sincerely,
Mike Craig, Interim Director
Vehicle Titles and Registration Division

PROCEDURES FOR OBTAINING AN ASSIGNED SERIAL NUMBER FOR A HOMEMADE/SHOPMADE TRAILER OR SEMITRAILER

- A Form VTR-68-A, *Application for Assigned or Reassigned Number*, must be completed. The top portion must be completed by the owner and the owner's signature must be notarized. The bottom portion must be completed by law enforcement (a member of the Department of Public Safety, Motor Vehicle Theft Service, National Crime Insurance Bureau, or an established vehicle theft unit of a Texas law enforcement agency).
- The owner must mail or take the completed Form VTR-68-A, acceptable evidence of ownership, a \$2 fee, and a photograph of the trailer or semitrailer to their local Vehicle Titles and Registration Division (VTR) Regional Office.
- Once approved and an assigned serial number is issued, the VTR Regional Office will forward a copy of the completed Form VTR-68-A and Form VTR-68-N, *Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number*, to the owner.
- The owner must then die stamp the assigned serial number on the trailer or semitrailer on the right side of a permanent part of the frame forward of the axle or tandem assembly.
- After the assigned number has been die stamped on the vehicle, the Form VTR-68-N, must be signed by the owner.
- If the trailer or semitrailer is being titled, the copy of the Form VTR-68-A and the completed Form VTR-68-N must be submitted to the County Tax Assessor-Collector's office with the application for title and all supporting documents.

A Dealer's Guide to the Used Car Rule

Most car dealers who sell used vehicles must comply with the Federal Trade Commission's (FTC's) Used Car Rule. In fact, car dealers who sell more than five used vehicles in a 12-month period must comply with the Rule. Banks and financial institutions are exempt from the Rule, as are businesses that sell vehicles to their employees, and Lessors who sell a leased vehicle to a lessee, an employee of the lessee, or a buyer found by the lessee.

The Used Car Rule applies in all states except Maine and Wisconsin. These two states are exempt because they have similar regulations that require dealers to post disclosures on used vehicles. The Rule applies in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and American Samoa.

This booklet defines the Rule's requirements, explains how to prepare and display the [Buyers Guide](#), and offers a compliance checklist.

You must post a [Buyers Guide](#) before you "offer" a used vehicle for sale. A vehicle is offered for sale when you display it for sale or let a customer inspect it for the purpose of buying it, even if the car is not fully prepared for delivery. This requirement also applies to used vehicles for sale on your lot through consignment, power of attorney, or other agreement. At public auctions, dealers and the auction company must comply. The Rule does not apply at auctions that are closed to consumers.

Previously titled or not, any vehicle driven for purposes other than moving or test driving, is considered a used vehicle, including light-duty vans, light-duty trucks, demonstrators, and program cars that meet the following specifications:

- a gross vehicle weight rating (GVWR) of less than 8,500 pounds;
- a curb weight of less than 6,000 pounds; and
- a frontal area of less than 46 square feet.

Exceptions to the Rule are:

- motorcycles;
- any vehicle sold for scrap or parts if the dealer submits title documents to the appropriate state authority and obtains a salvage certification; and
- Agricultural equipment.

The Buyers Guide

A disclosure document that gives consumers important purchasing and warranty information, the Buyers Guide tells consumers:

- whether the vehicle is being sold "as is" or with a warranty;
- what percentage of the repair costs a dealer will pay under warranty;
- that oral promises are difficult to enforce;
- to get all promises in writing;
- to keep the Buyers Guide for reference after the sale;
- the major mechanical and electrical systems on the car, as well as some of the major problems that consumers should look out for; and
- To ask to have the car inspected by an independent mechanic before they buy.

If you conduct a used car transaction in Spanish, you must post a [Spanish language Buyers Guide](#) on the vehicle before you display or offer it for sale.

The Buyers Guide must be posted prominently and conspicuously on or in a vehicle when a car is available for sale. This means it must be in plain view and both sides must be visible. You can hang the Guide from the rear-view mirror inside the car or on a side-view mirror outside the car. You also can place it under a windshield wiper. The Guide also can be attached to a side window. A Guide in a glove compartment, trunk or under the seat is not conspicuous because it is not in plain sight.

You may remove the Guide for a test drive, but you must replace it as soon as the test drive is over.

Vehicle Information

At the top of the Guide, fill in the vehicle make, model, model year, and vehicle identification number (VIN). Write in a dealer stock number if you wish.

Dealer Information

On the back of the Guide, fill in the name and address of your dealership. Also fill in the name (or position) and the telephone number of the person the consumer should contact with complaints. You may use a rubber stamp or preprint your Guide with this information.

Optional Signature Line

You may include a signature line on the Guide and you may ask the buyer to sign to acknowledge that he or she has received the Guide. If you opt for a signature line, you must include a disclosure near it that says: "I hereby acknowledge receipt of the Buyers Guide at the closing of this sale." This language can be preprinted on the form. The signature line and the required disclosure must appear in the space provided for the name of the individual to be contacted in the event of complaints after the sale.

Warranty Information

The Buyers Guide has two versions: One says "As Is-No Warranty;" the other says "Implied Warranties only."

As Is-No Warranty. If state law allows it, and you choose not to offer a warranty — written or implied — you must use the "As Is" version and check the box next to the heading "As Is-No Warranty" on the Guide.

Implied Warranties Only. In states that limit or prohibit the elimination of implied warranties, you must use the "Implied Warranties Only" version and check the box next to the "Implied Warranties Only" heading if you don't offer a written warranty.

Warranty. If you offer the vehicle with an express warranty, you must check the box next to the heading "Warranty" and complete that section of the Guide. Warranties required by state law must be disclosed in this section. Your state Attorney General can tell you about state warranty requirements.

State Law: In some states, use of the "As Is-No Warranty" Buyers Guide may be legally sufficient to eliminate implied warranties. In other states "as is" sales are allowed only if specific action is taken or certain language is used. For example, some states may require you to eliminate implied warranties by using special language and/or a document other than the Guide.

If you're not sure which version of the Buyers Guide you should use or if you have questions about state requirements, contact the FTC or your state Attorney General.

Is the Warranty "Full" or "Limited"?

For a warranty to be considered "full:"

Warranty service must be provided to anyone who owns the vehicle during the warranty period.

Warranty service must be provided free of charge when necessary, even for services like removing and reinstalling a system covered by the warranty.

The consumer must be able to choose either a replacement or a refund if the vehicle can't be repaired after a reasonable number of tries.

The consumer is not required to take any action to receive service, except to give notice that service is needed. Service must be rendered after notice unless the warrantor can demonstrate that it is reasonable to require consumers to do more than give notice.

The length of implied warranties must not be limited.

The warranty is considered "limited" if any of these conditions don't apply.

What Percentage of Costs Does the Warranty Cover?

Fill in the percentage of parts and labor costs covered by the warranty in the spaces provided. If a deductible applies to repairs made under the warranty, put an asterisk next to the number and explain the deductible in the "systems covered/duration" section. For example, "*A \$50 deductible applies to each repair visit."

What Systems Are Covered? For How Long?

There's one column to list the systems covered, and another to list the length of the warranty for each system. In the left hand column, you must specify each system that's covered by the warranty. The Rule prohibits the use of shorthand phrases such as "drive train" or "power train" because it's not always clear what specific components are included in the "power train" or "drive train."

In the right hand column, you must state the length of the warranty for each system. If all systems are covered for the same length of time, you may state the duration once.

What if the Manufacturers Warranty Still Applies?

If the manufacturer's warranty hasn't expired, you may disclose this fact by checking the "Warranty" box and including this disclosure in the "systems covered/duration" section: "MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on the vehicle. Consult the manufacturer's warranty booklet for details as to warranty coverage, service location, etc." The disclosure must be stated in the exact language quoted above. Using phrases such as "balance of factory warranty" are not sufficient.

If the consumer must pay to get coverage under the manufacturer's warranty, you may not check the "Warranty" box. Such coverage is considered a service contract. However, you may check the "warranty" box if you pay for coverage from the manufacturer and the consumer doesn't have to pay anything more than the price of the vehicle to get the coverage. If you provide a warranty in addition to the unexpired manufacturer's warranty, explain the terms of your warranty on the Buyers Guide.

Where Should Negotiated Warranty Changes Be Included?

If you and the consumer negotiate changes in the warranty, the Buyers Guide must reflect the changes. For example, if you offer to cover 50 percent of the cost of parts and labor for certain repairs, but agree to cover 100 percent of the cost of parts and labor after negotiating with the customer, you must cross out the "50 percent" disclosure and write in "100 percent." Similarly, if you first offer the vehicle "as is" but then agree to provide a warranty, you must cross out the "As Is-No Warranty" disclosure and complete the "Warranty" section of the Buyers Guide properly.

What About Service Contracts?

If you offer a service contract for repairs, check the box next to the words "Service Contract." However, if your state regulates service contracts as the "business of insurance," you don't have to check this box. Check with your Attorney General or state insurance commissioner to find out if your state regulates service contracts as insurance.

What Do I Have to Give the Buyer At the Sale?

You must give the buyer the original or a copy of the vehicle's Buyers Guide at the sale. The Guide must reflect all final changes. If you include a signature line on your Buyers Guides, make sure the buyer signs the Guide that reflects all final changes.

If you offer a written warranty, or if the manufacturer's warranty still applies, you also must comply with the Magnuson-Moss Warranty Act and other FTC Rules, including the "Warranty Disclosure Rule." The Warranty Act contains provisions that establish consumers' rights with respect to written warranties. For example, the Act prohibits you from eliminating implied warranties when you provide a written warranty.

The Warranty Disclosure Rule requires that you disclose certain information about the coverage of your warranty and consumers' rights under state law. This information must be included in a single document that is clear and easy to read.

Can the Buyers Guide Serve As My Written Warranty?

The warranty information you provide on the Buyers Guide is not sufficient to meet the requirements of the Warranty Disclosure Rule. Therefore, your written warranty and the Buyers Guide must be two separate documents.

Another federal rule — the FTC's Rule on Pre-Sale Availability of Written Warranty Terms — requires that you display written warranties in close proximity to the vehicle or make them available to consumers, upon request, before they buy.

Two publications are available to help you comply with these and other federal regulations on warranties: [A Businessperson's Guide to Federal Warranty Law](#) and [A legal Supplement to Federal Warranty Law](#). Both are available from the FTC. Call toll-free

1-877-FTC-HELP (382-4357), or write: Consumer Response Center, Federal Trade Commission, Washington, DC 20580. You also will find the full text of these publications at www.ftc.gov.

What Disclosures Should I Make if I Offer a 50/50 Warranty or Another Type of Split Cost Warranty?

Split cost warranties are those under which the dealer pays less than 100% of the cost for a warranty repair. This type of warranty includes 50/50 warranties where the dealer pays 50% of the cost for a covered repair and the buyer pays the remaining 50%. Another type of split cost warranty is one under which the buyer pays a deductible amount and the dealer pays the remaining cost for the repair.

If you offer a split cost warranty that requires you to pay a percentage of the repair cost for covered repairs, you should include the following disclosures in your warranty document:

The percentage of the total repair cost you will pay.

The percentage of the total repair cost the buyer must pay.

How the total cost of the repair will be determined. For example, your warranty might state: "The total cost of a warranty repair will be the retail price ABC motors charges for the same job." As another example, your warranty might state: "The total cost of a warranty repair will be determined by adding the dealer's cost for parts to the labor cost. Labor will be billed at a rate of _____ per hour for the actual time required to complete the repair." As a final example, your warranty might state: "If the work is done by an outside repair shop, total cost of a repair will be the same price ABC Motors is charged by the outside shop. If the work is done by ABC Motors, the total cost of the repair will be the same price ABC Motors charges non-warranty customers for the same job."

If your warranty requires buyers to pay a deductible, your warranty document should disclose the deductible amount and the details as to when and under what circumstances the deductible must be paid.

Dealers offering split cost warranties can require that buyers return to the dealer for warranty repairs. If your warranty includes this restriction, however, you should provide an estimate of the total repair cost before work is started. This will allow the buyer to decide whether to approve the repair or have the work done elsewhere.

Where Can I Get Copies of the Guides?

You can get Buyers Guides from business-form companies or trade associations, or you can download the Buyers Guide from the FTC's Web site. You also can generate them yourself on a computer. However, you must use the wording, type style, type sizes, and format specified in the Rule. You are not allowed to place any other wording or symbols (including logos) on the Buyers Guide. The Guides must be printed in 100% black ink on white paper cut to at least 11" x 7 1/4." These requirements cannot be modified in any way. You may use colored ink to fill in the blanks.

How Am I Doing?

Do you complete a Buyers Guide properly for each used vehicle offered for sale?

Do you post the Buyers Guide prominently and conspicuously on each used vehicle you offer for sale?

If you choose to include a signature line for the buyer's signature, do you include the following required disclosure language:

I hereby acknowledge receipt of the Buyers Guide
at the closing of this sale.

Do you put the following required disclosure in your sales contract:

The information you see on the window form for this vehicle
is part of this contract. Information on the window form overrides
any contrary provisions in the contract of sale.

Do you give the vehicle's Buyers Guide or a copy to the purchaser at the time of sale and make sure it states the final negotiated warranty coverage accurately?

If a sale is conducted in Spanish, do you use the Spanish language Buyers Guide?

If you offer a written warranty, do you prepare a warranty document that complies with federal law? Is the warranty document available for examination by potential buyers?

What If I Don't Comply?

Dealers who violate the Used Car Rule may be subject to penalties of up to \$11,000 per violation in FTC enforcement actions. Many states have laws or regulations that are similar to the Used Car Rule. Some states incorporate the Used Car Rule by reference in their state laws. As a result, state and local law enforcement officials may have the authority to ensure that dealers post Buyers Guides and to fine them or sue them if they do not comply.

Where Can I Get More Information?

If you have questions about the Used Car Rule, contact the FTC and request a free copy of the Rule or [staff compliance guidelines for the Used Car Rule](#); both documents explain some aspects of the Rule in more detail. You also can download these documents from the [FTC's website](#).

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair practices in the marketplace and to provide information to businesses to help them comply with the law. To file a [complaint](#) or to get [free information on consumer issues](#), visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into [Consumer Sentinel](#), a secure online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

June 2004

CHAPTER 5.

CASH SALES, SELLER FINANCING, RETAIL INSTALLMENT CONTRACTS AND REPOSSESSIONS

***CAVEAT:** Financing matters are regulated by the Office of the Consumer Credit Commission (OCCC) who licenses and promulgates rules for seller-financing. This section is meant as a primer and not necessarily updated as to the latest requirements of that agency. Dealers who have specific questions regarding financing are urged to contact the OCCC at 512-936-7600 or www.occc.state.tx.us for more details and further information.*

5.1 Cash Sales. There is no separate definition of a cash sale in the Finance Code. A retail installment transaction, discussed in more detail below, is defined as a transaction in which one or more payments are due after delivery of either the vehicle **OR** the contract. By inference from that definition, a cash sale is any sale in which the dealer collects every dime of the purchase price, including TT & L, before delivery of the vehicle or the contract.

5.2 Requiring a Second Payment Negates a Cash Sale. Some dealers believe that if the buyer pays cash for the vehicle, and then pays the TTL in a second payment later, the transaction is still a cash sale. This is not true. Anytime a second payment is required after delivery of a vehicle, the transaction is a retail installment transaction which requires a retail installment contract. If you collect the TTL at a later date, the only way to avoid a retail installment contract is not to deliver the vehicle until you have received all payments.

5.3 Cash Sales Required Documents. The Finance Code does not contain special requirements for documenting cash sales. The Transportation Code and agency rules require dealers to keep a copy of all documents in the sales transaction whether cash or credit, including among others, the sales contract or purchase order, Buyer's Guide signed by the consumer, copies of the front and back of the title, and the title application receipt or document indicating that the consumer was taking the vehicle to be titled outside of Texas. There are no required terms or phrases that must be included in a cash sales contract, although as a matter of general contract law, the contract should accurately identify the vehicle being purchased and the price for the purchase. If the dealer contracts for other services such as certain repairs, the contract must state the terms specifically and clearly. Failure to specify the terms in a manner which the consumer can understand could lead to lawsuits for fraud or breach of contract.

5.4 Cash or Financed Requirements. Some requirements remain the same whether the sale is a cash deal or financed.

- a. Do not require a customer to sign anything with blanks to be completed later and do not add or alter any information in the contract after the customer has signed and been given a copy.
- b. Give the customer copies of all documents the buyer signed at the time the vehicle is delivered. Please note that if you give a copy of the contract before all payments have been collected, the transaction must be stated on a retail installment contract.

5.5 Definition of Retail Installment Transaction. The Finance Code states that every transaction in which one or more payments – including tax, title and license fees – are due after the vehicle **OR** the contract is delivered to the consumer is a retail installment transaction, which requires a written Retail Installment Contract. All sales in which one or more payments are due after the vehicle is delivered **MUST** use a written Retail Installment Contract. The Retail Installment Contract informs the buyer of the terms of the agreement, including the amount of the installments and the date on which they are to be paid. Federal and state law both require that certain specific pieces of information have to be disclosed to the consumer in the Retail Installment Contract. **FAILURE TO INCLUDE ANY REQUIRED ELEMENT MAKES THE CONTRACT ILLEGAL, AND SUBJECTS THE DEALER TO SERIOUS PENALTIES.** Blank forms containing the required elements may be purchased from local printers who advertise in motor vehicle dealer trade magazines or a dealer may contact a local dealer association for the nearest printer.

5.6 Seller-finance License Required. If a dealer wishes to finance his own sales, the first step he must take is to apply for a license with the Office of the Consumer Credit Commissioner. This has been required of all dealers who finance sales since September 1, 2002. Any information presented here is very basic and given only as a courtesy. A dealer who wishes to provide financing should contact the OCCC BEFORE conducting any financed transactions.

5.7 Elements of a Retail Installment Transaction. The following are some specific elements of a retail installment transaction. This is not a complete discussion and is provided only as a general guide. If you intend to start financing sales, please contact the OCCC or seek advice from an attorney with experience in this area first. Again, please note that credit transactions are heavily regulated by both the state and federal governments and there are many traps for the unwary in this area.

- a. Required Terms. The Retail Installment Contract must be in writing and contain certain terms. The standard forms available from printers or software will all include spaces for the following information:
 - 1. The date on which the contract was signed

2. Signatures of both buyer and seller
3. Full names of both buyer and seller
4. Seller's business address
5. Buyer's address
6. Description of the vehicle, including vehicle identification number
7. The cash price
8. "Notice to Buyer" statement required by law
9. Amount financed through the loan
10. Total sale price, including down payment
11. Finance charge
12. Annual Percentage Rate (APR)
13. Payment schedule – number, amount, and due date of payments
14. Total of payments – the total amount of money when all payments have been made over the life of the contract.

b. Specific Terms. Certain terms listed above have special meanings in retail installment transactions.

1. *Cash Price* – The price the buyer would pay if she didn't want to finance the transaction. It includes payment for everything purchased but the finance charge.
2. *Itemized Charges* – TT & L, inspection fees, insurance, service contracts, and other items purchased. It can also include accessories added to the vehicle by the dealer, like window tinting.
3. *"Notice to Buyer"* is a notice required by the federal government containing certain language about consumer credit transactions.
4. *Documentary fee* – this is a separate charge many dealers assess for the preparation of the sales transaction documents. It may be no more than \$50, which is considerably more than your actual cost to do this. You might consider using the "doc fee" as a negotiating item with the buyer.
5. *Annual Percentage Rate (APR)*. The Annual Percentage Rate must be clearly stated on any retail installment contract. This is more than simple arithmetic. All but the most elementary of the many financing options require a computer program to determine APR. Good programs will also provide a version of a Retail Installment Contract that meets the requirements and fills in the blanks. Dealers who are not computer literate may wish to reconsider their interest in financing sales.

5.8 Bailment Contracts and "Spot" Deliveries. Dealers may sometimes attempt to deliver a vehicle to a consumer before the successful placement of financing with an outside source. This is acceptable only under very limited circumstances, and if done incorrectly, could subject the dealer to fines.

a. Spot Deliveries and Conditional Sales Contracts. This is the term used when a dealer allows the consumer to take the vehicle home after signing a

retail installment contract, but before the consumer has been approved for the loan. Dealers have the buyers fill out all the necessary papers hoping they can sell the paper as completed. A spot delivery is not legal unless the consumer has filled out a conditional sales contract (also called a bailment agreement) and it has been made very clear to the consumer that they may have to return and sign another contract with higher payments, higher interest, or larger down payment.

A conditional sales contract must incorporate the following required elements to be valid.

1. A clause that would allow the buyer to cancel the sales contract before credit is approved.
2. Provisions allowing the buyer to cancel with full refund and return of trade-in if financing is not approved in accordance with the terms described in the purchase order.
3. In case of cancellation, the buyer's liability is limited to a rental fee, excessive mileage charge and use if these items are set out in the contract.

A dealer may make a retail installment contract subject to a conditional sales agreement, but the dealer must be very careful not to extend the conditional sales contract over an unreasonable length of time. Because what is reasonable varies according to circumstances, it is wise to keep the limbo period between delivering the vehicle and determining financing as short as possible. Two weeks has been ruled reasonable; three months has been ruled unreasonable. We have included at the end of this chapter an acceptable form for the Conditional Sale and Delivery agreement.

Note that the Office of the Consumer Credit Commissioner maintains that a conditional sales contract is only valid if no retail installment contract has been signed. Once a retail installment contract has been signed, it supercedes the conditional sales contract and upon delivery of the vehicle, the transaction is complete. The dealer has no right to require changes to the contract once it is complete.

- b. Dehorsing.** In a similar practice known as dehorsing, the consumer has given the dealer a trade-in as part of the deal. If the consumer can't or won't agree to new terms, he or she will often demand to unwind the deal and take back the trade-in. The dealer then says the trade-in is already sold (whether it is or not) so that unwinding is not an option. The consumer has been dehorsed, so he or she is forced to come to some agreement with the dealer. The Enforcement Section treats this practice as fraud. It is wise to wait to sell a trade-in until after the customer has been approved for financing.

5.9 Maximum Finance Charges. The basic law regulating maximum finance charges was written in 1967, prior to the Federal Truth in Lending Laws (TILA). In 1967, it was normal to show what is called an add-on rate in a contract. An add-on rate is simply so many dollars per \$100 financed per year. The authorization for add-on rates is now found in §348.104 of the Finance Code.

The add-on rates based on the model year are:

1. \$7.50 per hundred for model year 2000, 1999 and 1998 new vehicle, plus new foreign.
2. \$10 per hundred per year for model year 1999 used; 1998 and 1997.
3. \$12.50 per hundred per year for model year 1996, 1995 and, plus foreign more than four years old.
4. \$15 per hundred per year for model year 1994 and older.

The rates shown above were developed for the period before computers because you could figure the finance charge by simple multiplication.

Before TILA the time price differential (TPD) rate for the example above would have been 12.5 percent, after TILA the disclosure rate changed to 26.58 percent.

5.10 Repossessions. Repossession is based on a contractual and legal right to take possession of a vehicle if the consumer does not meet certain conditions laid out in the Retail Installment Contract. The right of a dealer to repossess a motor vehicle is based on having a security interest in the vehicle.

- a. Creating a security interest.** The standard form Retail Installment Contract contains language that grants the dealer or lender a security interest in the vehicle being purchased. This is one very good reason to use the standard form contract. Without the language in the contract, there is no security interest and therefore no right to repossess the vehicle. The security interest is then perfected – which simply means ‘completed’ – as a lien on the vehicle when the dealer transfers title.

Even before the lien is perfected by transferring title, the dealer may repossess if the customer does not fulfill certain terms of the Retail Installment Contract. Once the lien is perfected, the world knows of the lien, and the dealer stands first in line if others attempt to take the vehicle for other debts. The first person to perfect a lien on an item has priority over other creditors of the purchaser. This creation of a first lien is important to a dealer to protect his interest and ability to recover the vehicle if the consumer defaults on the contract. Dealers who finance sales thus have another reason to transfer title and record their lien in a timely manner.

- b. Grounds for repossession.** The dealer's right to repossess a vehicle is based on his security interest and the terms that may trigger repossession as spelled out in the Retail Installment Contract. Typically, these terms require the buyer to make payments in a timely manner and to keep the vehicle insured.

Another basis for repossession is if the dealer has a good faith belief that the prospect of payment is impaired. This is a weak basis that depends on the facts of the situation. For instance, if the dealer learns the customer is about to leave the area because of a pending arrest warrant, the dealer can reasonably believe payment on the contract is unlikely and collection will become nearly impossible. Repossession would be warranted, unless it becomes evident that the debtor made arrangements for someone else to make payments while he is unavailable. If you think this remedy is warranted, seek legal advice BEFORE TAKING ANY OTHER ACTION. Wrongful repossession has serious consequences, including possible prosecution for theft.

- c. Retrieving the vehicle.** The law is clear that if a dealer has a right to repossess a vehicle and has not obtained a court order to do so, the right may be exercised only if there is no breach of the peace. Courts have established that repossession of a vehicle from certain locations is acceptable. In summary, a vehicle may be retaken from the customer's driveway, from a public street or other public location. Repossession may not be made if the vehicle is behind closed garage doors or a locked gate. Further, even if the repossession location is legal, if a customer objects to the repossession, especially in those cases where physical force is used, it is considered a breach of the peace. These limitations on a dealer's right to physically retake a vehicle also apply to an employee of the dealer or an independent contractor. A towing company, for instance, acting as the dealer's agent is subject to all the same requirements and limitations as the dealers.
- d. Right of redemption.** After the repossession of a vehicle, and at any time before the dealer disposes of the vehicle, the customer may redeem the vehicle by paying the dealer the balance due on the contract plus the costs of repossession. The dealer must notify the customer prior of the repossession and before the vehicle is sold of the customer's right to redeem the vehicle.
- e. Disposition of the vehicle.** The dealer may dispose of the vehicle (i.e. sell it again) in any commercially reasonable manner. This usually means the dealer retails or wholesales the vehicle at a reasonable price. After notice to the customer, the dealer may dispose of any personal property found in the vehicle not claimed by the customer. This may include tools, clothing or other articles found in the vehicle. If the items are installed or attached to the vehicle, such as a stereo, the items are considered part of the vehicle and are subject to disposition with the vehicle.

f. Disposition of proceeds. Once the repossessed vehicle is re-sold, the proceeds must be distributed in the following order:

1. to the expenses of repossession, including attorneys fees;
2. to the debt owed on the vehicle;
3. to the debt owed to anyone else who has a security interest in the vehicle, if notice of this interest is received before the distribution; and,
4. to the debtor if proceeds remain after the prior items are paid.

These strict requirements for financing sales and repossessing vehicles demonstrate the need for dealers to become properly educated before doing either. There are many, many legal traps that may be very costly to the uneducated dealer.

CHAPTER 6.

TITLING VEHICLES

CAVEAT: This section is presented as a courtesy and a very basic primer and may not reflect the most recent law changes. Questions for more detailed information on titling and registering vehicles should be directed to the Texas Department of Transportation's Vehicle Titles & Registration Division (VTR) at 512-465-7611 or the local Tax Assessor-Collector. Information regarding Salvage Dealer Licensing may be obtained by contacting the Vehicle Titles & Registration Division Salvage Licensing Unit at (512) 374-5010 Option 3 and information regarding the issuance of salvage documents may be obtained by contacting the Vehicle Titles & Registration Division customer Help Desk at (512) 465-7611, Special Plates Branch at (512) 374-5010 Option 3. Copies of the many forms mentioned herein may be obtained from the county tax offices, Vehicle Titles & Registration Division Regional Offices for from TxDOT's website (www.TxDOT.gov). To see a complete list of motor vehicle Title and Registration forms, go to

http://www.dot.state.tx.us/txdot_library/forms/citizen/drivers_vehicles/title_vehicle.htm

For a list of VTR Division offices, go to:

http://www.txdot.gov/drivers_vehides/vehicle_registration/all_regional_offices.htm.

6.1 Wholesale Sales. When a dealer sells a vehicle wholesale, care should be taken to make sure that the title is provided to the new dealer and that the selling dealer has legibly printed the selling dealership's name in the proper place for reassignments. This will insure that the selling dealer is in the chain of title. By law, no one is allowed to sell a vehicle if they do not have possession of the title. A copy of the front and back of the title should be kept by the seller to meet the record requirements. Any other documents such as registration receipts should also be forwarded to the new owner.

6.2 Dealer must transfer, not customer. As a dealer, if you sell a motor vehicle to a consumer, you must complete all the documents that are necessary to title and register the vehicle in the consumer's name. The consumer is not allowed to handle the title transfer. The dealer must file the paperwork with the county tax assessor-collector's office within 20 working days of the date of sale. If a consumer goes to the tax assessor-collector office to transfer the title of a motor vehicle purchased from a dealer, the office will notify MVD and a complaint will be filed against the dealer.

There are three places a vehicle may be titled and registered:

- ◆ In the county where the sale took place;
- ◆ In the county of the buyer's residence;
- ◆ In the county of the lienholder.

As of September 1, 2005, the buyer may designate which one of the three locations where their vehicle is to be registered. The dealer is required to have the buyer sign a form VTR -136, (Page 6-15) and keep this form in the sales file.

6.3 Exception to Dealer Transfers. By law dealers are required to do the titling and registering of vehicles they sell. However, there are exceptions where the dealer may give the paperwork to the buyer to handle. Those exceptions include the sale of:

- ◆ vehicles that have been declared a total loss;
- ◆ salvage and non-repairable vehicles that have been rebuilt;
- ◆ vehicles purchased by out-of-state residents who are leaving the state immediately;
- ◆ vehicles sold to out-of-state or foreign residents or dealers;
- ◆ vehicles sold to exempt (governmental) agencies;
- ◆ trucks over 11,000 pounds gross weight;
- ◆ trailers weighing less than 4,000 lbs. gross weight.

6.4 Taking Assignment on Titles. When a dealer receives a vehicle in trade, or purchases a vehicle from the auction, another dealer, or a consumer, the dealer should make sure the dealership's name is entered as the buyer on the back of the title above the line marked "Name of Purchaser." When the seller signs the back of the title and the buying dealer's name is not entered, this is known as an "open title." Dealers are expressly forbidden to hold open titles under Rule 8.141(a)(13).

6.5 Odometer Statements. Out-of-state titles and any other types of documentation not having the proper odometer statement also require a separate odometer disclosure statement provided the motor vehicle is not exempt from disclosure requirements.

6.6 Applying for Title. Three items are needed to apply for a Texas title:

- ◆ Ownership document – this can be the title if transferring a title for a used motor vehicle. Franchised dealers selling new vehicles will have an MCO.
- ◆ Registration receipt – only if the registration is current.
- ◆ Title application.

6.7 Ownership Documents. Make sure that the vehicle described on the title or MCO matches the vehicle you are actually selling. Check the VIN on the title against the VIN on the vehicle. Make sure the vehicle is the proper model, body type, etc. as stated on the title. Make sure all names are spelled correctly and the person who sold the vehicle to you is the same one on the title.

a. Determine the type of vehicle. If the Texas title conforms to the federal odometer requirements (issued after 4/29/90), then all information on the assignment must be completed if the vehicle is subject to the Federal Truth in Mileage Act. Vehicles that are exempt include:

- ◆ Vehicles with a gross weight of 16,000 pounds or more or in excess of 2 tons;
- ◆ Vehicles that are not self-propelled (such as trailers);
- ◆ Vehicles ten model years old or older (figured by subtracting ten from the current calendar year);

- ◆ Vehicles owned by a United States governmental agency;
- ◆ New motor vehicles prior to the first retail sale (in this situation, the MCO would be the ownership document).

b. Other forms. Make sure that any reassignment document (Page 6-9, Form VTR-41-A) or power of attorney (Page 6-8, Form VTR-271-A) indicates the same information that is on the title. Out-of-state titles and any other type of documentation not having the proper odometer statement will require a separate odometer disclosure statement (Form 40). If the title is from out of state, then an Identification Certificate is also required.

Make sure that all available reassignment spaces on the back of a Texas title are used before using the Dealer Reassignment (Form VTR-41-A).

c. The secure power of attorney form. There are only two conditions when the use of the secure power of attorney form is appropriate.

- ◆ when the title is held by the lienholder, and;
- ◆ when the title is lost.

d. Liens. If a lien is recorded on the surrendered evidence of ownership then a lien release would be required unless that lien is being carried forward on the new title application. If a lien is being carried forward and a transfer of ownership is involved, written authorization from the lienholder is required. The date on the lien release must be the same date or after the power of attorney date. If a secure power of attorney (POA) accompanies a title recording a lien, the release of lien date must be the same as the date the POA was executed or after. On out-of-state titles, make sure the date of the release of lien is included in the release.

6.8 Documentation Required for Foreign/Imported Vehicles. The state requires certain documentation for the registration and titling of foreign vehicles. However, a dealer should always check with their local county tax office as many may require additional documents. The requirements of the Texas Department of Transportation are:

a. An Identification Certificate, DPS Form VI-30-A (Page 6-10), properly executed by a Texas official state approved safety inspection station will be required on all vehicles imported into the United States.

b. The Inspection Report on the bottom of the Application for Assigned or Reassigned Number, Form VTR-68-A (Page 6-11), must be executed by a law enforcement officer who is a member of one of the following agencies: Municipal Police Auto Theft Unit; County Sheriff's Department Auto Theft Unit; Federal Bureau of Investigation; Texas Department of Public Safety, Motor Vehicle Theft Services; the National Insurance Crime Bureau (NICB) or Auto Theft Prevention Authority Auto Theft Task Force.

c. A weight certificate will be required on all imported commercial motor vehicles in excess of one (1) ton.

d. Proof of compliance with applicable US Department of Transportation (USDOT) safety requirements and US Customs entry/clearance documentation, if applicable. If the vehicle is imported under bond, an original bond release letter from the USDOT (with all attachments referred to in the letter, if any) will be required; otherwise, a validated application for Importation of Motor Vehicles and Motor Vehicle Equipment subject to Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards (US DOT Form HS-7) must accompany such document. NOTE: In lieu of the bond release letter, a bond release verification letter issued by USDOT is acceptable.

e. All foreign vehicles imported into Texas that are less than ten years old are subject to odometer requirements.

f. A receipt or certificate issued by the U. S. Department of Treasury showing that any and all gas guzzler taxes due on the vehicle have been fully paid, if applicable. A copy of the IRS Form 720 that was filed by the applicant accompanied by a copy of the canceled check will also be acceptable proof of payment of the tax, if applicable.

6.9 Title Application. The title application (Form 130-U, Page 6-12) should be filled out carefully and completely before filing at the tax office. Be sure to make a copy of the completed application for your records. Make sure that:

- ◆ the vehicle description is correct and complete, including the odometer reading;
- ◆ the applicant information including social security number (if joint owners, then you must show both social security numbers) is complete;
- ◆ lienholder information if applicable is current, and the lien date is included;
- ◆ odometer disclosure is accurate;
- ◆ sales tax statement has been calculated properly;
- ◆ both the buyer and seller have signed the application (Comptroller requires seller's signature).

6.10 The Title Application Receipt. After you have filed the application for title and registration, you will receive a receipt from the tax office known as the "white slip" (VTR-500-RTS). This form is an important document, because it proves you applied for the title and paid the proper fees and taxes. Many financial institutions require a white slip before they will release funds. Make sure you protect this document and keep the original or a copy in your sales records.

IT IS VERY IMPORTANT TO CHECK THE TITLE APPLICATION RECEIPT PREPARED BY THE TAX OFFICE BECAUSE WHATEVER APPEARS ON THE

RECEIPT IS WHAT WILL BE PRINTED ON THE TITLE. ANY ERRORS, ESPECIALLY OMISSION OF LIEN INFORMATION, MUST BE CAUGHT WITHIN 24 HOURS; OTHERWISE, A COURT ORDER WILL BE NEEDED TO STOP TITLE ISSUANCE.

Titles are issued by TxDOT usually within 5 days of receipt of the paperwork from the County.

6.11 Vehicle Registration. A copy of the current registration receipt should accompany the title papers when you file at the tax office. Determine whether the registration is current on the vehicle. If the registration is current, then a \$2.50 transfer fee will apply. If the registration has expired, then full registration fees will be due at the time the transaction is filed. For the exact amount of the registration fee, call your local county tax office.

6.12 Title and Registration in Another State. Once in a while you will get a customer who wants you to title and register the vehicle in another state for them so they will not have to bother with it. If you sell vehicles out of state on a regular basis it may be economical for you to buy the two volume set entitled "Motor Vehicle Registration Manual" published by The Polk Company, 26955 Northwestern Hwy, Southfield, Michigan 48034, (800) 635-5522. This set describes in detail titling and registration procedures in all the states.

6.13 Handling the Out of the Ordinary Title Situation. If you find you do not have negotiable evidence of ownership or the documentation is not sufficient to apply for title (such as an assignment missing or incomplete), three options exist to transfer title.

a. Tax Collector Hearing. This can be initiated at the county, however the tax collector has discretion to send a customer to the VTR Regional Office to review the documentation first. Upon receiving a request for a hearing, the tax collector sets the date for the hearing, which shall not be less than 10 days or more than 15 days from the date of request. When the tax collector sets the date for a hearing, he/she shall notify all parties that might appear to have an interest in the vehicle in question, including the owner and lienholder of record. After hearing the evidence presented by all parties, the tax collector will decide whether title should be issued to the applicant. TxDOT abides by this decision. All evidence presented at the hearing is attached to the order and submitted with the title application to TxDOT, if the tax collector has granted title.

b. Bonded Title Process. This must be initiated at the VTR Regional Office. This process provides an alternative to a tax collector's hearing. The "Statement of Fact" (Form VTR-130-SOF, Page 6-13, 14) should be completed by the applicant in order to provide the circumstances of how and from whom the vehicle was obtained. A letter is prepared by the VTR Regional Office outlining the proper procedure with blind copies sent to the owner and lienholder of record and any other interested parties. A Certificate of Title Surety Bond is purchased

by the applicant and submitted to the county tax office along with any other documentation. The bonded title procedure cannot be used for abandoned vehicles, vehicles subject to storage or mechanic's lien, stolen vehicles, or vehicles involved in litigation.

c. Court Order. A suit may be filed in the County or District Court in an effort to obtain a court order directing TxDOT to issue title.

6.14 When Title is Lost, Getting a Certified Copy of the Title. If a dealer takes a trade and the consumer does not have the title, the dealer should get the owner to either go through one of the three methods mentioned above, or they may apply for a certified copy of title. As of January 1, 1996, TxDOT may issue a certified copy of title *only* to the recorded owner(s), lienholder(s), or a verified agent. An application presented to the Department by anyone other than those listed will be rejected. The certified copy of title may **ONLY** be delivered by mail to the address recorded on the application.

The recorded owner(s) or lienholder(s) may obtain a certified copy of title only upon presentation of properly executed documents and valid personal identification which includes a photograph, issued by an agency of this state or the United States.

In the case of joint ownership, both owners must provide photo ID.

A verified agent of the owner(s) or lienholder(s) may obtain a certified copy of title only upon presentation of properly executed documents, valid personal identification which includes a photograph, and verifiable proof that they are an agent for the owner(s) or lienholder(s). Verifiable proof may consist of a business card, copy of employee identification, or a letter of signature authority on original letterhead. If a power of attorney (POA) is used, the photo ID of the person appointing the POA is also required.

Any questions regarding certified copy of title issuance should be directed to your local VTR Regional Office.

6.15 Forging Title Documents is a Felony. Under §501.155 of the Texas Transportation Code, it is a third-degree felony for a person to knowingly provide false or incorrect information, or sign the name of another person without legal authority on a title application, an application for a certified copy of title, an assignment of title, a discharge of lien, or any other document required by the department or necessary to the transfer of ownership of a motor vehicle. Do not sign your customers' names to power of attorneys or title applications. Get the paperwork signed while the customer is in the office or call them back to do so. All dealers want to make it easy for their customers, but many complaints received by VTR come from consumers saying they never gave permission to the dealer to sign certain documents.

6.16 The Most Common Reasons Title Transactions are Rejected.

- ◆ **Vehicle Information** (year, make, and/or VIN incorrect)
- ◆ **Owner Information** (owner's name and address incorrect, signatures omitted)
- ◆ **Liens** (omitted, not carried forward, not released)
- ◆ **Odometer** (brand and readings incorrect)
- ◆ **Tonnage** (carrying capacity and/or empty weight incorrect)
- ◆ **Title Record** (later title record has been issued)
- ◆ **Vehicle Transfer** (incorrect vehicle transferred)
- ◆ **Surrendered Evidence** (mismatched or missing evidence)
- | **Bonded Title** (incomplete information, such as signature, date, etc.)
- | **Title Remarks** (remark omitted, not carried forward, i.e., Reconstructed, Flood)

6.17 Standard Presumptive Value. Effective October 1, 2006 Dealers may charge a buyer a fee for performing the service of providing a certified appraisal on a vehicle which they bought from an individual. The Comptrollers office by rule have set the fees for such appraisals and for most vehicles, a dealer can charge from \$100 to no more than \$300 for a certified appraisal. A dealer's certified appraisal of a motorcycle can cost from \$40 to \$300, and a dealer appraisal of a house trailer, travel trailer or a motor home can cost from \$100 to \$500. Comptroller Form 14-128, Used Motor Vehicle Certified Appraisal Form, is available on Window on State Government at www.window.state.tx.us. Select "Texas Taxes."

6.18 How to Get More Information on Titling and Registration. The Vehicle Titles and Registration Division publishes two manuals, one on titling and one on registration of vehicles. Both of these manuals contain copies of all the forms and instructions on how to title or register a vehicle and are updated regularly. A dealer can contact the TxDOT General Services Division, Publication Services Section at (512) 302-0985 and order a copy of these manuals for a very small fee. Updates can be ordered at this same number. See page 6-14 for a list of VTR regional offices.

Forms can be downloaded from the Internet or faxed. Go to the TxDOT web page at www.dot.state.tx.us, click on "services" on the blue ribbon at the top, then click on "Vehicle Titles and Registration" under Divisions. Bookmark this site for future use.

STATE OF TEXAS				
POWER OF ATTORNEY FOR TRANSFER OF OWNERSHIP TO A MOTOR VEHICLE				
(SEE REVERSE SIDE FOR INSTRUCTIONS)				
WARNING: THIS FORM MAY BE USED ONLY WHEN TITLE IS PHYSICALLY HELD BY LIENHOLDER OR HAS BEEN LOST.				
This Form Must Be Submitted To The State By The Person Exercising Powers of Attorney. Failure To Do So May Result In Fines And/Or Imprisonment.				
VEHICLE DESCRIPTION				
Vehicle Identification Number	Year Model	Make of Vehicle	Body Style	Model
PART A. A POWER OF ATTORNEY TO TRANSFER OWNERSHIP AND TO DISCLOSE MILEAGE				
Federal and State law require that you state the mileage upon transfer of ownership. Providing a false statement may result in fines and/or imprisonment.				
I, _____, appoint _____				
(Seller's Name, Print)		(Buyer's Firm Name, Print)		
as my attorney-in-fact, to execute all documents necessary to transfer my interest in the above described vehicle and to disclose the mileage on the title for the vehicle described above exactly as stated in my following disclosure.				
I state that the odometer now reads _____ (no tenths) miles and to the best of my knowledge that it reflects the actual mileage unless one of the following statements is checked.				
<input type="checkbox"/> (1) I hereby certify that to the best of my knowledge the odometer reading reflects the mileage in excess of its mechanical limits. <input type="checkbox"/> (2) I hereby certify that the odometer reading is NOT the actual mileage. WARNING - ODOMETER DISCREPANCY.				
_____ (Signature of Seller/Agent)		_____ (Printed Name)		_____ (Date of Statement)
_____ (Seller's Street Address, City, State, Zip Code)				_____ (Daytime Phone Number)
_____ (Signature of Buyer/Agent)		_____ (Printed Name of Individual Signing as Buyer/Agent)		
_____ (Firm's Name, Street Address, City, State, Zip Code - Print or Type)				_____ Dealer Number
PART B. POWER OF ATTORNEY TO REVIEW TITLE DOCUMENTS AND ACKNOWLEDGE DISCLOSURE. (PART B IS INVALID UNLESS PART A HAS BEEN COMPLETED.)				
I, _____, appoint _____				
(Buyer's Name, Print)		(Dealership's Name, Print)		
as my attorney-in-fact, to sign the mileage disclosure on the title for the vehicle described above, only if the disclosure is exactly as the disclosure completed below.				
_____ (Signature of Buyer/Agent)		_____ (Printed Name)		
_____ (Print or Type Firm Name, If Applicable)				
_____ (Buyer's Street Address, City, State, Zip Code)				
Federal and State law requires that you state the mileage upon transfer of ownership. Providing a false statement may result in fines and/or imprisonment.				
I, _____, state that the odometer now reads _____ (NO TENTHS)				
(Seller's Name, Print)				
miles and to the best of my knowledge that it reflects the actual mileage unless one of the following statements is checked.				
<input type="checkbox"/> (1) I hereby certify that to the best of my knowledge the odometer reading reflects the mileage in excess of its mechanical limits. <input type="checkbox"/> (2) I hereby certify that the odometer reading is NOT the actual mileage. WARNING - ODOMETER DISCREPANCY.				
_____ (Signature of Seller/Agent)		_____ (Print Name)		_____ (Date of Statement)
_____ (Dealership's Name, Street Address, City, State, Zip Code)				_____ Dealer Number
PART C. CERTIFICATION (TO BE COMPLETED WHEN PARTS A AND B HAVE BEEN USED)				
I, _____, hereby certify that the mileage I have disclosed on				
(Person Exercising Above Powers of Attorney, Print)				
the title document is consistent with that provided to me in the above power of attorney. Further, upon examination of the title and any reassignment documents for the vehicle described above, the mileage disclosure I have made on the title pursuant to the power of attorney is greater than that previously stated on the title and reassignment documents. This certification is not intended to create, nor does it create any new or additional liability under Federal or State law.				
_____ (Signature)		_____ (Printed Name)		_____ (Date of Certification)
_____ (Street Address, City, State, Zip Code)				
8617024 THIS DOCUMENT IS VOID IF ALTERED.				

FORM VTR 271-A SECURE POWER OF ATTORNEY

STATE OF TEXAS Texas Department of Transportation DEALER'S REASSIGNMENT OF TITLE FOR A MOTOR VEHICLE					
VEHICLE IDENTIFICATION NUMBER		YEAR MODEL	MAKE OF VEHICLE	BODY STYLE	TITLE / DOCUMENT NUMBER
MODEL	NAME OF STATE OR COUNTRY IN WHICH LAST REGISTERED		YEAR OF LICENSE	LICENSE NUMBER	
<p>FEDERAL AND STATE LAW REQUIRES THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT.</p>					
REASSIGNMENT BY DEALER ONLY	<p>The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:</p>				
	<p>Name of Purchaser _____ Street _____ City _____ State _____ Zip _____</p> <p>I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:</p>				
	<p> <input checked="" type="checkbox"/> ODOMETER READING (NO TENTHS) <input type="checkbox"/> 1. The mileage stated is in excess of its mechanical limits. <input type="checkbox"/> 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY. </p>				
	<p> Date of Sale _____ Dealer's Name _____ Dealer No. _____ Agent's Signature _____ Printed Name (Same as Signature) _____ I am aware of the above odometer certification made by the seller/agent. Signature of Buyer/Agent _____ Printed Name (Same as Signature) _____ </p>				
REASSIGNMENT BY DEALER ONLY	<p>The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:</p>				
	<p>Name of Purchaser _____ Street _____ City _____ State _____ Zip _____</p> <p>I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:</p>				
	<p> <input checked="" type="checkbox"/> ODOMETER READING (NO TENTHS) <input type="checkbox"/> 1. The mileage stated is in excess of its mechanical limits. <input type="checkbox"/> 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY. </p>				
	<p> Date of Sale _____ Dealer's Name _____ Dealer No. _____ Agent's Signature _____ Printed Name (Same as Signature) _____ I am aware of the above odometer certification made by the seller/agent. Signature of Buyer/Agent _____ Printed Name (Same as Signature) _____ </p>				
REASSIGNMENT BY DEALER ONLY	<p>The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:</p>				
	<p>Name of Purchaser _____ Street _____ City _____ State _____ Zip _____</p> <p>I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:</p>				
	<p> <input checked="" type="checkbox"/> ODOMETER READING (NO TENTHS) <input type="checkbox"/> 1. The mileage stated is in excess of its mechanical limits. <input type="checkbox"/> 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY. </p>				
	<p> Date of Sale _____ Dealer's Name _____ Dealer No. _____ Agent's Signature _____ Printed Name (Same as Signature) _____ I am aware of the above odometer certification made by the seller/agent. Signature of Buyer/Agent _____ Printed Name (Same as Signature) _____ </p>				
REASSIGNMENT BY DEALER ONLY	<p>The undersigned hereby certifies that the vehicle described in this title is free and clear of all liens, except as noted herein, and has been transferred to the following printed name and address:</p>				
	<p>Name of Purchaser _____ Street _____ City _____ State _____ Zip _____</p> <p>I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:</p>				
	<p> <input checked="" type="checkbox"/> ODOMETER READING (NO TENTHS) <input type="checkbox"/> 1. The mileage stated is in excess of its mechanical limits. <input type="checkbox"/> 2. The odometer reading is not the actual mileage. WARNING - ODOMETER DISCREPANCY. </p>				
	<p> Date of Sale _____ Dealer's Name _____ Dealer No. _____ Agent's Signature _____ Printed Name (Same as Signature) _____ I am aware of the above odometer certification made by the seller/agent. Signature of Buyer/Agent _____ Printed Name (Same as Signature) _____ </p>				
LIEN	<p>LIENHOLDER TO BE RECORDED AND SHOWN ON NEW TITLE: 1ST LIEN IN FAVOR OF (NAME & ADDRESS) _____ DATE _____</p>				

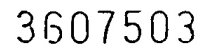
NOTE: THIS FORM IS NOT VALID UNLESS ALL ASSIGNMENTS/REASSIGNMENTS ON AN ATTACHED ORIGINAL OR CERTIFIED COPY TEXAS CERTIFICATE OF TITLE OR MANUFACTURER'S CERTIFICATE OF ORIGIN HAVE BEEN COMPLETED. UNAUTHORIZED PRINTING OR REPRODUCTION OF THIS DOCUMENT IS PROHIBITED.

THIS DOCUMENT IS VOID IF ALTERED IN ANY WAY.

5570010

Form VTR-41-A (7-99)

FORM VTR-41-A DEALER'S REASSIGNMENT OF TITLE FOR A MOTOR VEHICLE



FOR A MOTOR VEHICLE LAST REGISTERED
OR TITLED IN SOME OTHER STATE OR COUNTRY

NOT ACCEPTABLE WITH ERASURES OR ALTERATIONS

I, the undersigned duly appointed Inspector, hereby certify that I have physically examined the manufacturer's vehicle identification number of the motor vehicle described above.

Download a copy of this form from VTR webpage.

Name of Station

This form must be attached to your application for Texas Certificate of Title at the time you purchase Texas License plates from county Tax Assessor-Collector. This inspection required by law.

DPS FORM VI-30-A
IDENTIFICATION CERTIFICATE



APPLICATION FOR ASSIGNED OR REASSIGNED NUMBER

THIS SPACE FOR DEPARTMENTAL USE ONLY

Type of Number Issued

- | | |
|--|--|
| <input type="checkbox"/> Reassigned Manufacturer's VIN | <input type="checkbox"/> Motor Number as VIN |
| <input type="checkbox"/> Assigned VIN | <input type="checkbox"/> Motorcycle VIN |
| <input type="checkbox"/> Trailer | <input type="checkbox"/> Travel Trailer |
| <input type="checkbox"/> Component Part | <input type="checkbox"/> Equipment |

Approved By: _____

Number Assigned: ↓

The applicant hereby applies for an assigned number to be affixed to the following motor vehicle, component part, or equipment:

- | | |
|--|--|
| <input type="checkbox"/> Motor _____
Year and Make of Motor | <input type="checkbox"/> Frame _____
Year and Make of Frame |
| <input type="checkbox"/> Transmission _____
Year and Make of Transmission | <input type="checkbox"/> Body _____
Year Make Body Style |

If above part is installed in applicant's vehicle, the following must be completed:

Make _____ Model _____ Year _____ Body Style _____ Title/Document Number _____

Vehicle Identification Number _____

License Number _____ State of Issuance _____ Month & Year of Expiration _____

Before me, the undersigned authority, personally appeared the owner (as evidenced by the attached document or documents) of the vehicle, part, or equipment described above, who, on this _____ day of _____, 2003, is hereby applying for an assigned number to be affixed to described vehicle, and he states that he is the rightful owner of the above described vehicle.

Download a copy of this form from VTR webpage.

City _____ State _____ Zip Code _____

SEAL

Signature of Applicant _____

Subscribed and sworn to before me this _____ day of _____, 2003.

Notary Public in and for _____ County, Texas

WARNING! TRANSPORTATION CODE §501.155 PROVIDES THAT FALSIFYING INFORMATION ON ANY REQUIRED DOCUMENT IS A THIRD-DEGREE FELONY.

INSPECTION REPORT TO BE EXECUTED BY LAW ENFORCEMENT AGENCY

This inspection covers: (Check ALL appropriate statements) ☐ Motor Vehicle Component Part Only ☐ Motor Vehicle ☐ Motorcycle Frame

☐ Motorcycle Motor ☐ Travel Trailer ☐ Trailer ☐ Semitrailer ☐ Part is installed in applicant's vehicle ☐ Equipment

☐ Part is not installed in applicant's vehicle ☐ MANUFACTURER DID NOT ASSIGN IDENTIFICATION NUMBER TO THE _____ (Show part[s] as applicable)

☐ Vehicle assembled from parts for which no identification number was ever affixed to body, if motor vehicle, or to frame, if motorcycle, travel trailer, trailer, or semitrailer.

☐ Number assigned by manufacturer for identification purposes has been removed, changed, or obliterated.

☐ Unable to determine the true manufacturer's number. (Explain in "REMARKS" below.)

REMARKS: (Describe alterations. Additional remarks may be made on reverse side.)

I personally inspected the vehicle, part, or equipment described above and found the true and original manufacturer's identification number to be _____, or ☐ I was unable to determine the true manufacturer's identification number.

My official ID number is _____ with →

Printed Name of Officer _____

Phone Number _____

Signature of Officer _____

Date _____

(City/County) _____

- ☐ Municipal Police Auto Theft Unit
- ☐ County Sheriff's Department Auto Theft Unit
- ☐ Federal Bureau of Investigation
- ☐ National Insurance Crime Bureau
- ☐ Texas Department of Public Safety - MVTS
- ☐ Auto Theft Prevention Authority
- Auto Theft Task Force

THE FEE OF \$2.00 AND THE EVIDENCE OF OWNERSHIP MUST ACCOMPANY THIS APPLICATION.

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION.

FORM VTR-68-A
APPLICATION FOR ASSIGNED OR REASSIGNED NUMBER

APPLICATION FOR TEXAS CERTIFICATE OF TITLE

SHADED AREAS ARE TO BE COMPLETED BY THE SELLER

TYPE OR PRINT NEATLY IN INK

TAX OFFICE USE ONLY

Tax Collector _____ County _____
Date _____ Transaction Number _____

1. Vehicle Identification Number _____ 2. Year _____ 3. Make _____ 4. Body Style _____

5. Model _____ 6. Odometer Reading _____ 7. Empty Weight _____ 8. Carrying Capacity (lbs.) _____ 9. Tonnage _____

10. Trailer Type _____ 11. Plate No. _____ 12. Vehicle Unit No. _____

☐ Semi ☐ Full

14. Applicant's/Owner's Name(s) _____

Address _____

City, State, Zip Code _____

14a. Registrant's Name _____

(Renewal Notice Recipient)

Address _____

City, State, Zip Code _____

14b. Vehicle Physical Location _____

City, State, Zip Code _____

15. Previous Owner's Name _____

Address _____

City, State, Zip Code _____

THIS MOTOR VEHICLE IS SUBJECT TO THE FOLLOWING FIRST LIEN

16. 1st Lien Date _____ 1st Lienholder Name _____

Address _____

City, State, Zip Code _____

17. FOR CORRECTED TITLE:
CHECK REASON(S)☐ Change in Vehicle Description☐ VIN☐ No Change in

Ownership

☐ Add

Lien

☐ Remove

Lien

☐ Odometer

Brand

☐ Odometer

Reading

18. ODOMETER DISCLOSURE FEDERAL AND STATE LAW REQUIRES THAT YOU STATE THE MILEAGE UPON TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT.

I, _____, state that the odometer now reads _____ (no tenths).

** (Name of Seller/Agent)

THE MILEAGE SHOWN IS ☐ A - Actual Mileage ☐ N - Not Actual Mileage WARNING - ODOMETER DISCREPANCY ☐ X - Mileage Exceeds Mechanical Limits

** IF NO SELLER/AGENT, TITLE APPLICANT SHOULD CHECK ONE OF THE 3 BOXES ABOVE UNLESS NUMBER 6 INDICATES "EXEMPT."

MOTOR VEHICLE TAX STATEMENT

19. CHECK ONLY IF APPLICABLE

☐ I hold Motor Vehicle Retailer's (Rental) Permit No. _____ and will satisfy the minimum tax liability (V.A.T.S., Tax Code, §152.046 [c]).☐ I am a Dealer or Lessor and qualify to take the Fair Market Value Deduction (V.A.T.S., Tax Code, §152.002 [c]).

20. DESCRIPTION OF VEHICLE _____ Year _____ Make _____ Vehicle Identification Number _____

TRADED IN (if any) _____

20a. ADDITIONAL TRADE - INS? (Y/N) _____

21. SALES AND USE TAX COMPUTATION

<input type="checkbox"/> (a) Sales Price (\$ _____ rebate has been deducted)	\$ _____	<input type="checkbox"/> \$90 New Resident Tax - (Previous State) _____
(b) Less Trade-In Amount, Describe in Item 20 Above	\$ (_____)	<input type="checkbox"/> \$5 Even Trade Tax
(c) For Dealers/Lessors/Rental ONLY - Fair Market Value Deduction, Describe in Item 20 Above	\$ (_____)	<input type="checkbox"/> \$10 Gift Tax
(d) Taxable Amount (Item a. minus Item b./Item c.)	\$ _____	<input type="checkbox"/> \$65 Rebuilt Salvage Fee
(e) 6.25% Tax on Taxable Amount (Multiply Item d. by .0625)	\$ _____	<input type="checkbox"/> 2.5% Emissions Fee (Diesel Vehicles 1996 and Older > 14,000 lbs.) _____
(f) Late Tax Payment Penalty <input type="checkbox"/> 5% or <input type="checkbox"/> 10%	\$ _____	<input type="checkbox"/> 1% Emissions Fee (Diesel Vehicles 1997 and Newer > 14,000 lbs.) _____
(g) Tax Paid to _____ (STATE)	\$ _____	<input type="checkbox"/> Exemption claimed under the Motor Vehicle Sales and Use Tax Law because _____
(h) AMOUNT OF TAX AND PENALTY DUE (Item e. plus Item f. minus Item g.)	\$ _____	<input type="checkbox"/> \$28 or \$33 APPLICATION FEE FOR CERTIFICATE OF TITLE (Contact your County Tax Assessor-Collector for the correct fee.)

I HEREBY CERTIFY
CORRECT22. _____
Signature of SELLER, DONOR, OR TRANSFEROR23. _____
Signature of PURCHASER, DONEE, OR TRANSFEREE

RIGHTS OF SURVIVORSHIP OWNERSHIP AGREEMENT BETWEEN PERSONS NOT MARRIED SHOULD SURVIVORSHIP OWNERSHIP AGREEMENT FOR A MOTOR VEHICLE, THE PERSONS WHOSE SIGNATURES APPEAR HEREON SHALL AGREE TO HOLD JOINTLY AND SEVERALLY THE OWNERSHIP OF THE VEHICLE DESCRIBED ON THIS APPLICATION FOR TITLE, SHALL FROM THIS DAY FORWARD BE HELD JOINTLY, AND IN THE EVENT OF DEATH OF EITHER OF THE PERSONS NAMED IN THE AGREEMENT, THE OWNERSHIP OF THE VEHICLE SHALL VEST IN THE SURVIVOR.

Fill out this form online or
Download a copy of this
form from VTR webpage.

SIGNATURE _____

Date _____

Date _____

Date _____

Date _____

WARNING: Transportation Code, §501.155, provides that falsifying information on title transfer documents is a third-degree felony offense punishable by not more than ten (10) years in prison or not more than one (1) year in a community correctional facility. In addition to imprisonment, a fine of up to \$10,000 may also be imposed.

*** NOTE:** Transportation Code, §501.0235, REQUIRES that the applicant's social security number be provided when applying for a certificate of title. If the applicant does not have a social security Number, Form VTR-171, Statement of Fact for Non-disclosure of a Social Security Number, must accompany this application. This information is requested for owner identification purposes.



Statement of Fact

(Required to be Completed by Title Applicant
Prior to Review of Evidence of Ownership)

Title Applicant's Printed Name

Mailing Address City State Zip Code County

Vehicle Description: Year Model Make Body Style Model

License Plate No. Vehicle Identification Number

1. Are you a Texas resident or military personnel stationed in Texas? ☐ Yes ☐ No
2. Is the vehicle you are attempting to title subject to any of the provisions of the Transportation Code, Chapter 683, (i.e., abandoned vehicles, junked vehicles issued a Certificate of Authority, vehicles declared a public nuisance, etc.)? ☐ Yes ☐ No
3. A. Is the vehicle you are attempting to title subject to storage or mechanic's charges under the provisions of Chapter 70, State Property Code? ☐ Yes ☐ No
B. Is the vehicle you are attempting to title subject to foreclosure on a Contractual Landlord's Lien under the provisions of Chapters 54 (i.e., Building or Residential) and 59 (i.e., Self-service Storage Facility Lien)? ☐ Yes ☐ No
4. Has this vehicle been reported stolen? ☐ Yes ☐ No
5. A. Was the vehicle manufactured for sale or distribution in the United States? ☐ Yes ☐ No
(If no, complete B. below)
B. Are you unable to provide proof of compliance with U.S. Department of Transportation safety requirements? ☐ Yes ☐ No
6. Is the vehicle involved in any pending lawsuits? ☐ Yes ☐ No
7. Is the vehicle operable? ☐ Yes ☐ No (If no, complete VTR-131, Request to Issue Negotiable Certificate of Title Without Registration.)
8. If the motor vehicle is inoperable, does it have a motor, body and frame? ☐ Yes ☐ No

Please state how and from whom you obtained the vehicle and why proper documents are not available.

Download a copy of this
form from VTR webpage.

Applicant's Signature

()

Phone Number

Date

Date of Birth

Driver's License Number

State of Issuance

NOTE: YOU MAY BE REQUESTED TO LEAVE APPLICATION OVERNIGHT FOR PROCESSING.

WARNING! TRANSPORTATION CODE, §501.155 PROVIDES THAT FALSIFYING INFORMATION ON ANY REQUIRED STATEMENT OR APPLICATION IS A THIRD-DEGREE FELONY.

(OVER)

Hearing/Bond Checklist

The following must accompany your completed Statement of Fact in order for tax assessor-collector's hearing or bonded title to be processed.

- ☐ 1. Pencil tracing of vehicle identification number or, if unable to secure pencil tracing, a physical description (Form VTR-270).
- ☐ 2. Evidence of ownership, if any (bill of sale, etc.).
- ☐ 3. NADA Book Value (furnished by department) or two value appraisals may be required depending on the year model of the vehicle. Appraisals must be legible, signed by the appraiser and contain the appraiser's complete business name and address. A sample appraisal form is available from the VTR Regional Offices. (Required for bonded title transaction ONLY.)
- ☐ 4. Weight certificate required if the vehicle is a commercial vehicle from out of state or no record of Texas title exists.

APPLICABLE ONLY IF LAST REGISTERED AND/OR TITLED IN ANOTHER STATE

- ☐ 5. Vehicle Identification Number Certificate (Form VI-30 or Form VI-30-A).

**CONTACT YOUR LOCAL VEHICLE TITLES AND REGISTRATION
DIVISION REGIONAL OFFICE FOR QUESTIONS OR ADDITIONAL INFORMATION**

FOR DEPARTMENT USE ONLY

- ☐ 1. NCIC CHECKED BY
- ☐ 2. VINASSIST PRINTOUT (IF NO RECORD FOUND AND VEHICLE IS YEAR MODEL '81 OR NEWER)
- ☐ 3. MICROFICHE FORM (IF NO RECORD IN SYSTEM MUST COMPLETE FORM 257)
- ☐ 4. FORM 36 — REJECTION SHEET
- ☐ 5. REJECTION LETTER
- ☐ 6. CERTIFICATE OF TITLE SURETY BOND (FORM VTR-130-SB)
- ☐ 7. REFERENCE BOOK PAGE — VALUE CIRCLED OR COPIES OF APPRAISALS
- ☐ 8. FINALIZATION PROCEDURES



COUNTY OF TITLE ISSUANCE

of transportation
department
(G.S. 2006)
Page 1 of 2

THIS FORM MUST BE EXECUTED AND SIGNED BY THE PURCHASER(S)

Seller Information:

Transportation Code §501.0234 requires a licensed motor vehicle dealer to apply for a certificate of title and registration for a motor vehicle in the county as directed by the purchaser.

Purchaser Information:

The purchaser of a motor vehicle shall select the county that will receive all sales tax, title fees, and other state and local fees collected at the purchase of this vehicle; the tax assessor-collector is authorized by law to retain some of this money to fund local county government.

Purchaser(s) must select only one from the list below:

- **COUNTY OF PURCHASER'S RESIDENCE**
- **COUNTY WHERE MOTOR VEHICLE IS PURCHASED**
- **COUNTY WHERE MOTOR VEHICLE IS ENCUMBERED (LIENHOLDER)**

I want my transaction filed in _____ County.
County Name (to be hand written by the purchaser)

SIGNATURE OF PURCHASER

DATE

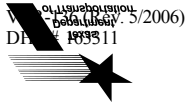
SIGNATURE OF PURCHASER

DATE



CONDADO DE EXPEDICION DE TITULO

ESTA FORMA DEBE SER FORMALIZADA Y FIRMADA POR EL(LOS)
COMPRADOR(ES)



Información sobre el Comerciante:

El Código de Transporte §501.0234 requiere que un comerciante con licencia para venta de vehículos solicite un certificado de título y registro para un vehículo en el condado especificado por el comprador.

Información sobre el Comprador:

El comprador del vehículo elegirá cual condado recibirá los impuestos de venta, las cuotas del título, u otros cargos estatales y locales recaudados durante la compra del vehículo; el recaudador esta autorizado por ley a retener una parte del dinero para subsidiar el gobierno local del condado.

El (los) comprador(es) del vehículo debe(n) elegir únicamente uno de los elementos listados abajo:

- **CONDADO DONDE RESIDE EL COMPRADOR**
- **CONDADO DONDE EL VEHICULO FUE COMPRADO**
- **CONDADO DONDE ESTA UBICADO EL POSEEDOR DEL DERECHO DE RETENCION**

Yo deseo que mi transacción sea archivada en el Condado_____
Nombre del Condado (Deberá ser escrito a mano
por la persona que compra el vehículo)

FIRMA DEL COMPRADOR

FECHA

FIRMA DEL COMPRADOR

FECHA



POWER OF ATTORNEY TO TRANSFER MOTOR VEHICLE

TYPE OR PRINT IN INK

This is to certify that I, _____
Print or Type Name of Owner
of the County of _____
and the State of Texas, owner of the following described motor vehicle, do make, constitute and appoint:

Print or Type Name
of the County of _____ and the State of _____, my true and lawful attorney,
for me and in my name, place and stead to sell, transfer, and assign or purchase and apply for the title on the motor vehicle
described as follows:

Year	Make	Body Style	Model	License Plate Number
Vehicle Identification Number			Title Number	

Giving and granting unto my said attorney full power and authority to do and perform all and every act requisite and necessary
to transfer and assign the legal title to said motor vehicle or to purchase and apply for a title to anyone whomsoever as may be
designated by my said attorney.

NOTE: This form must be properly completed before it is an acceptable document. The power of attorney cannot be
granted to the selling or buying dealer and/or employee of the dealership of the vehicle disclosed therein,
unless the year model is ten (10) model years old or older, the tonnage exceeds two (2) tons, or the vehicle is
not self-propelled.

If a Power of Attorney will be used to apply for a certified copy of title, the person signing must include a copy of his/her
government issued photo identification (for example, a Texas or other state's driver's license, a government issued
Identification Card, or a United States passport).

I further certify that the current odometer reading is _____ miles and to the best of
(No Tenth)
my knowledge the odometer reading is the ACTUAL mileage of the vehicle unless one of the following statements

is checked: ☐ 1. The mileage stated is in EXCESS of its mechanical limits.
☐ 2. The odometer reading is NOT the actual mileage. **WARNING - ODOMETER DISCREPANCY**

Print or Type Name of Owner

Signature of Owner

Address

Date

Download a copy of this
form from VTR webpage.

Zip Code

WARNING: TRANSPORTATION CODE, §501.155, PROVIDES THAT FALSIFYING INFORMATION ON ANY REQUIRED
STATEMENT OR APPLICATION IS A THIRD-DEGREE FELONY.

TEXAS DEPARTMENT OF TRANSPORTATION
VEHICLE TITLES AND REGISTRATION DIVISION
AUSTIN TEXAS 78779-0001





TEXAS MOTOR VEHICLE TRANSFER NOTIFICATION

INSTRUCTIONS

ALL INFORMATION MUST BE COMPLETE

If any of the requested information is unavailable or unknown, write "Unknown" in the applicable spaces.
Your liability for this vehicle may not be released if you submit illegible or incomplete information.

SELLER INFORMATION

NAME OF SELLER/TRANSFEROR

CURRENT ADDRESS

CITY

STATE

ZIP

FEE: \$5.00 DO NOT MAIL CASH.

PLEASE REMIT PAYMENT IN THE FORM OF A
CASHIER'S CHECK, MONEY ORDER, OR CHECK
PAYABLE TO THE TEXAS DEPARTMENT OF
TRANSPORTATION.

NOTE: Fees submitted are non-refundable.
However, if you resubmit this form with
the rejection there will be no charge.

VEHICLE INFORMATION (The department does not maintain files by owner name.)

TITLE/DOCUMENT NUMBER

VEHICLE MAKE

PLATE NUMBER

VEHICLE IDENTIFICATION NUMBER

BODY STYLE

TRANSFER INFORMATION

NAME OF BUYER/TRANSFeree

NAME OF TRANSFeree

CURRENT ADDRESS

ZIP

Fill out this form online or
Download a copy of this
form from VTR webpage.

I/we hereby request that the department mark its motor vehicle records to indicate that I/we have transferred the vehicle described above under the provisions of the Transportation Code, §520.023, which addresses secondhand vehicle transfers. I/we understand that the motor vehicle record will remain in my/our name(s) until a new Texas Certificate of Title is applied for and issued, recording the name of the new owner.

SIGNATURE OF SELLER(S)/TRANSFEROR(S)

DATE SIGNED (mm/dd/yyyy)

MAIL TO:

TEXAS DEPARTMENT OF TRANSPORTATION
VEHICLE TITLES AND REGISTRATION DIVISION
PO BOX 13175
AUSTIN TX 78711-3175

WARNING: Transportation Code, §501.155, provides that falsifying information on any required statement or application is a third-degree felony offense punishable by not more than ten (10) years in prison or not more than one (1) year in a community correctional facility. In addition to imprisonment, a fine of up to \$10,000 may also be imposed.

NOTICE

With a few exceptions, you are entitled to be informed about the information TxDOT collects about you. Texas Government Code, §§562.021, 562.023 and 569.004 further entitles you to receive and review the information on request, and to request the department correct any information about you that is deemed incorrect. Please contact the TxDOT Vehicle Titles and Registration Division at (512) 465-7611 for further details.

☐ THIS VEHICLE TRANSFER NOTIFICATION IS BEING RETURNED
FOR THE REASONS SHOWN ON THE REVERSE SIDE.



STATEMENT OF FACT
FOR NON-DISCLOSURE OF A
SOCIAL SECURITY NUMBER

Transportation Code §501.0235 states, "The department shall require an applicant for a certificate of title to provide the applicant's social security number to the department."

VEHICLE IDENTIFICATION NUMBER			
YEAR	MAKE	BODY STYLE	LICENSE PLATE NO.

I, _____, an applicant for Texas Certificate of Title
Printed Name
on the above described vehicle, certify that:

1. Failure to provide a social security number on the application for title is not intended to circumvent the provisions of this Act; and
2. ☐ I have not been issued a social security number.
or
☐ I have rescinded my social security number.

SIGNATURE OF APPLICANT

WARNING: Transportation Code §501.0235 states that a person who knowingly provides false information on a title application is a criminal offense punishable by imprisonment for not more than one (1) year in a community correctional facility. In addition to imprisonment, a fine of up to \$10,000 may also be imposed.

Download a copy of this
form from VTR webpage.





Affidavit for Repossessed Motor Vehicle

This form, along with other transfer documents, must be submitted to the county tax office for processing.

YEAR MODEL	MAKE	BODY STYLE
VEHICLE IDENTIFICATION NUMBER		TEXAS CERTIFICATE OF TITLE DOCUMENT NUMBER

This vehicle was repossessed because of the failure of the former owner(s) to meet the obligation in the matter of settlement of the terms of encumbrances on said vehicle, and this repossession is not made with intent to defeat the purpose of the Texas Motor Vehicle Safety Responsibility Act.

METHOD OF REPOSSESSION: PLEASE MARK THE APPROPRIATE BOX.
SUPPORTING DOCUMENTS MUST BE ATTACHED TO THE TITLE APPLICATION WITH THIS AFFIDAVIT.

☐ **TERMS OF SECURITY (LIEN) AGREEMENT**

If a lien is not recorded on the Texas Title, a certified copy of the Security (Lien) Agreement must be attached, and the lienholder must apply for a Texas Certificate of Title in the lienholder's name before a transfer of the vehicle ownership can be perfected.

☐ **SEQUESTRATION**

The original or a certified copy of the Sheriff's Bill of Sale must be attached to the title transaction.
(A Writ of Sequestration ordering a sheriff or constable to seize property may be issued by Judges and Clerks of the District and County Courts and Justices of the Peace.)

☐ **FLOOR PLAN LIEN**

DEALER'S GENERAL DISTINGUISHING NUMBER

PRINT DEALER'S NAME

When a "Floor Plan" lien covers vehicles in a dealer's inventory, and if the dealer is in default under the terms of the security agreement, the lienholder may repossess and transfer ownership without securing title in the dealer's name. In such instances, an application for title in the name of the purchaser must be supported by the following documentation:

1. Manufacturer's certificate or certificate of title properly assigned to the dealership and reassigned to the purchaser by the lienholder.
2. Affidavit for Repossessed Motor Vehicle, Form VTR-264.
3. Photocopy of the Security Agreement or Secretary of State's Form UCC-1.

This is to certify that the undersigned has repossessed the above motor vehicle.

SIGNATURE OR NAME OF LIENHOLDER

BY AUTHORIZED AGENT

PRINTED NAME OR NAME OF LIENHOLDER (SAME AS

Before me this day personally appeared _____
set forth above are true and correct.

Subscribed and sworn to before me this _____

Notary Public

Download a copy of this
form from VTR webpage.

_____, Notary Public _____, County, Texas

WARNING: TRANSPORTATION CODE §501.155 PROVIDES THAT FALSIFYING INFORMATION ON ANY REQUIRED STATEMENT OR APPLICATION IS A THIRD-DEGREE FELONY.

Vehicle Titles and Registration Division
Texas Department of Transportation
Austin TX 78779-0001



CHAPTER 7.

SALES TAXES, VEHICLE INVENTORY TAXES, AND STANDARD PRESUMPTIVE VALUE

NOTE: This section is meant solely as a primer and may not reflect the most recent law changes as Motor Vehicle Sales and Use Tax is regulated by the Texas Comptroller of Public Accounts. More detailed information may be obtained by calling 1-800-252-1382 or 512-463-4600. For Information regarding Vehicle Inventory Tax call 1-800-252-9121. For a complete list of motor vehicle sales and use tax forms, see

http://www.txdot.gov/txdot_library/forms/government/tax_collectors.htm

7.1 Sales Tax. A sales tax, currently 6.25 percent, is levied on all motor vehicle sales in the state of Texas. For sales tax purposes, the taxable total consideration of a motor vehicle is the sale price of the vehicle, less any trade-in allowance for a motor vehicle. It does not include documentary fees, inspection fees, finance charges or the title and registration fees. If the tax is submitted to the county tax assessor-collector more than 20 working days after the sale, a penalty of 5 percent of the sales tax due is levied. If the tax is paid more than 30 calendar days after the date on which the tax was due, an additional 5 percent penalty is due.

7.2 Dealer-financed Sales. If you are a dealer who offers consumers contracts to finance sales, you must be licensed by the Office of the Consumer Credit Commissioner. You must also hold a permit from the Comptroller's Office. When the application for transfer of title is submitted, the dealer's seller-financed sales tax permit number from the Comptroller is placed on the application to defer the tax. To summarize the payment options, there are three methods for paying sales tax:

- a. Pay the sales tax in full when the application for transfer of title is submitted.
- b. Pay the sales tax in full at the next seller-financed reporting period. This usually gives the dealer many weeks before the sales tax is due.
- c. Pay the sales tax on the receipts collected during each reporting period at the time of filing the seller-financed reports. The tax is paid only on the amounts collected. Under this option, the sales tax on a down payment would be due when the dealer files his seller-financed sales report to the Comptroller. The remaining taxes would then be collected on a straight-line basis for the remainder of the note amount. If payments stop and the vehicle is repossessed, sales tax must be paid only on the actual payments received by the dealer. This method is preferred by most dealers.

This right to defer sales taxes is canceled in two situations. If the dealer does not transfer title within 60 days of the sale, all the sales tax is due in the period in which the failure to transfer the title occurs. Further, if the sales contract is sold to an unrelated third party or a nonqualifying related third party, the full sales tax amount is due in the period in which the note transfer occurs. The ability to defer sales tax on the transaction

no longer exists.

7.3 Cash Sales. The law requires the selling dealer in all cash sales (including bank-financed sales) to collect the sales tax from the customer and to pay it to the county tax office within 20 county working days. The failure to collect sales tax is not an excuse for failure to apply for transfer of title in a timely manner. The dealer may not give the title and transfer paperwork to the consumer and send the consumer to the tax office to apply for transfer of title. The dealer must handle the transaction. Even if no cash is received from a buyer, such as when a trade-in is used as the down payment on a replacement vehicle, the dealer must apply to transfer title in a timely manner and pay the applicable sales tax. To this day, tax offices statewide report dozens of dealers who do not collect the sales tax and rely on the buyer to handle the transfer themselves. These complaints result in warning letters and civil penalties assessed against the dealer by MVD. Failure to collect and pay tax may also result in actions by the Comptroller.

7.4 Use of Exemption Certificates. There are two types of sales that do not require sales tax to be collected by the selling dealer:

a. Texas Motor Vehicle Sales Tax Exemption Certificate - For Vehicles Taken Out of State. If the vehicle is to be transported immediately out of Texas for titling and registration, a motor vehicle sales tax exemption certificate (Form 14-312) may be completed and signed by the buyer. To be a valid exemption, there must be no use of the vehicle in Texas other than the immediate transportation of the vehicle out of the state. This form is not filed with any government agency. It is retained by the dealer as proof that the transaction qualifies for sales tax exemption. See form on Page 7-7.

b. Texas Motor Vehicle Sales Tax Resale Certificate -For Wholesale Sales. If the vehicle is sold wholesale to another Texas dealer who is purchasing it for resale only, no sales tax is due. Note that a new motor vehicle may be purchased for resale only by a dealer franchised to sell that type of new vehicle, while a used vehicle may be purchased for resale by any dealer holding a GDN. This form is not filed with any government agency. It is retained by the dealer as proof that the transaction qualifies for sales tax exemption. A blanket form of the certificate may be used if multiple sales are anticipated. See form on Page 7-8.

7.5 Motor Vehicle Inventory Taxes. Since 1994, all motor vehicle dealers – except those selling trailers and those with wholesale licenses – have had to report and pay motor vehicle inventory taxes (VIT). This is a property tax on dealers who were in business on January 1 of a particular year. A Dealer's Motor Vehicle Inventory Declaration (VIT Declaration) form must be filed upon the opening of a dealership and annually thereafter, as detailed below. Dealer's Motor Vehicle Inventory Tax Statements (VIT Statements) detailing the prior month's sales must be filed monthly.

a. What to file.

1. Upon Becoming Licensed. In the dealer's first partial calendar year of business, he

or she establishes a tax rate. This is done by filing a VIT Declaration with the county chief appraiser and sending a copy to the tax assessor-collector within 30 days of being licensed. The Declaration informs these offices that a new dealership has been established and a file must be started on the dealership. Thereafter, in the first partial calendar year of business, the dealer must complete and file monthly VIT Statements, filing the original with the county tax assessor-collector and a copy with the county appraisal district's chief appraiser. No VIT payments are due on these reports during the first calendar year. The monthly VIT Statements will be used to establish the tax rate for the following year.

2. VIT Declarations. The dealer's obligation to pay VIT payments begins on January 1 of the calendar year after the dealership is established. In January of each year, between January 1 and 31, the dealer must file an annual VIT Declaration summarizing sales for the preceding calendar year.

3. VIT Statements. Each month in that first full calendar year of business the dealer must file a monthly VIT Statement and pay any VIT payments due.

Monthly VIT Statements and annual Declarations are due whether or not any motor vehicles have been sold.

b. When to Report. Every licensed motor vehicle dealer in the state of Texas, with the exception of those holding trailer dealer and wholesale licenses, is required to file the Dealer Motor Vehicle Inventory Declaration form, which lists the total value of the dealer's motor vehicle inventory sold during the previous year. This form must be filed with the county appraisal district each year between January 1 and January 31. **A copy must also be sent to the county tax assessor-collector's office.** New dealers must file a Declaration form within 30 days of opening their business to report their name, address and MVD license information.

Motor vehicle dealers must also file with the county tax assessor-collector's office the Dealer's Motor Vehicle Inventory Tax Statement, which lists the motor vehicles sold. **A copy must also be sent to the county chief appraiser's office.** The monthly VIT Statements and any VIT payments due are required to be filed by the 10th day of each month, reporting the previous month's sales.

c. How to Report.

1. Report the following items on the Dealer Motor Vehicle Inventory Declaration form:

- A. Breakdown of sales for prior calendar year (January - December).
- B. Breakdown of sales amounts for prior calendar year (January – December)
- C. Other general information about the retail business – mailing address, name and business location.

2. Report the following items on the Dealer's Motor Vehicle Inventory Tax Statement:

- A. Date of sale,
- B. Model year of motor vehicle,
- C. Make of motor vehicle,
- D. Vehicle identification number,
- E. Purchaser's name,
- F. Type of sale:
 - MV – regular motor vehicle inventory sale,
 - FL – fleet sale – sales of five or more motor vehicles from the dealer's inventory to the same buyer within one calendar year,
 - DL – dealer sales – sales of vehicles to another Texas dealer or a dealer who is legally recognized in another state as a motor vehicle dealer,
 - SS – subsequent sales – dealer-financed sales of motor vehicles that are sold, repossessed and sold again, in the same calendar year. 1The first sale is reported as a motor vehicle inventory sale, with sale of this same vehicle later in the same calendar year classified as a subsequent sale.
- G. Sales price,
- H. Unit property tax value,
- I. Total unit property tax value for each page and for the total report,
- J. Total sales – number of vehicles for each type of sale and by total sales amounts.

c. Pay VIT Amounts Due. Multiply the total sales prices of taxable vehicles sold by the tax rate, called the unit property tax factor on the form, to calculate VIT due. Send the original monthly VIT Statement to your county tax assessor-collector, along with the tax payment. Send a copy of your monthly VIT Statement to your county appraisal district.

7.6 Penalties.

a. MVD Administrative actions. Dealers who do not file timely annual VIT Declarations or dealers who report the sale of fewer than five vehicles in a calendar year are reported to the MVD by the chief appraiser and the tax assessor-collector offices. The law requires MVD to initiate termination proceedings against any dealer who fails to file a timely annual VIT Declaration, or who reports selling fewer than five vehicles in a calendar year. Further the tax assessor-collector offices and county appraisal districts may file administrative complaints with MVD for failure to timely file monthly VIT Statements. For failure to file VIT Statements and Declarations and pay VIT, administrative actions can range from warning letters to civil penalties of \$500 or more, or license cancellation. Furthermore, dealers who falsify VIT Statements and Declarations are subject to serious penalties for falsification of government records.

b. Failure to File a Monthly VIT Statement. In addition to the MVD penalties noted above, a dealer who does not file the monthly VIT Statement in a timely manner commits a misdemeanor punishable by a fine up to \$100 per day until the VIT Statement is filed. A tax lien attaches to the dealer's business personal property to secure payment of the \$100 penalty. A dealer forfeits an additional penalty of \$500 for each month or portion of the months that the statement is not filed. Furthermore, a dealer who fails to remit the taxes due pays a 5 percent late

fee, with another five percent if not paid within 10 days.

c. Failure to File Annual VIT Declaration. In addition to the MVD penalties noted above, a dealer who does not file an annual VIT Declaration in a timely manner commits a misdemeanor punishable by a fine up to \$500 per day until the VIT Declaration is filed. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. A dealer forfeits an additional penalty of \$1000 for each month or portion of month that is not filed.

A very good form that explains the VIT procedure is attached to this section as an exhibit starting on page 7-10. Anyone wishing to download a personal copy can find the form on the Comptroller's website at: <http://www.window.state.tx.us/taxinfo/taxforms/14-forms.html>

7.7 Standard Presumptive Value. The new Standard Presumptive Value law (SPV) only applies to "private-party" sales. A private-party sale does not involve a licensed motor vehicle dealer. If a licensed motor vehicle dealer sells the used vehicle, tax is due based on the sales price. The county does not have to check the used vehicle's SPV if the seller is a licensed dealer. The selling dealer's signature on the title application is an acceptable record of the sales price. The county tax assessor-collector, at his or her option, may request the dealer's invoice or sales receipt from any purchaser.

a. The law includes all motor vehicles with a few exceptions. The new SPV law applies to all types of used motor vehicles. Basically, a motor vehicle is a self-propelled vehicle designed to transport persons or property, or a vehicle designed to carry property while being towed by another vehicle, on the public highways. Off-road vehicles, such as dirt bikes and all-terrain vehicles (ATVs), are not considered motor vehicles for motor vehicle sales tax purposes. They are not subject to the SPV calculation.

b. The law excludes some sales transactions.

SPV procedures are not used on these types of transactions:

- salvage vehicles;
- abandoned vehicles;
- vehicles sold through storage or mechanic's liens;
- vehicles eligible for classic car and classic truck license plates (whether or not the vehicles use those plates);
- even trade of vehicles, which has a \$5 motor vehicle tax, or
- the gift of a vehicle, which has a \$10 motor vehicle tax.

c. Certified Appraisals by Dealers. A purchaser who pays less than 80 percent of the vehicle's SPV can realize a tax savings if a certified appraisal for the used vehicle reflects a lesser value. For example, a used vehicle may be worth less if it has substantial body damage or needs major mechanical work. The purchaser must present the appraisal to the county on a Comptroller form within 20 county working days from the purchase date or within 20 county working days after bringing the vehicle into Texas.


There are two ways to get a certified appraisal: from a motor vehicle dealer licensed for that category of vehicle or from a licensed insurance adjuster. For example, a purchaser can request a car dealer to appraise a car, a motorcycle dealer to appraise a motorcycle or a trailer dealer to appraise a trailer.

Dealer fees for appraisals are set by law and Comptroller rule. For most vehicles, a dealer can charge from \$100 to no more than \$300 for a certified appraisal. A dealer's certified appraisal of a motorcycle can cost from \$40 to \$300, and a dealer appraisal of a house trailer, travel trailer or a motor home can cost from \$100 to \$500.

The law allows licensed insurance adjusters to determine the fees they charge. Purchasers should realize that an appraisal fee may offset any tax savings. For example, tax on \$1,600 of value is \$100. In other words, a \$100 appraisal must reduce the vehicle's SPV by more than \$1,600 to save money. A \$300 appraisal fee would require almost a \$5,000 reduction in value to offset the appraisal cost. Comptroller Form 14-128, Used Motor Vehicle Certified Appraisal Form, is available on Window on State Government at www.window.state.tx.us. Select "Texas Taxes." The Comptroller's office provides this form to licensed motor vehicle dealers and insurance adjusters. A copy of this form is on page 7-8 and further instructions are on the back of the form which appear on page 7-9.

14-312
(12-94)**TEXAS MOTOR VEHICLE SALES TAX EXEMPTION CERTIFICATE**
—FOR VEHICLES TAKEN OUT OF STATE

Name of purchaser	
Address (Street & number, P.O. Box or Route number)	Phone (Area code and number)
City, State and ZIP code	


I, the purchaser named above, claim an exemption from payment of motor vehicle sales tax for the purchase of the motor vehicle described below:			
Vehicle identification number	Make of vehicle	Year model	State where vehicle will be used/registered
Seller			
Street Address			
City, state and ZIP code			
<p>I claim this exemption because the vehicle is to be transported outside this state, prior to any use in this state other than the transportation of the vehicle out of state, for use exclusively outside this state. By signing below, I hereby authorize the Comptroller to provide a copy of this certificate to the state of intended use and registration.</p> <p>I understand that I will be liable for payment of motor vehicle sales or use taxes which may become due if I fail to comply with the provisions of the Tax Code: Chapter 152. Taxes on Sale, Rental, and Use of Motor Vehicles.</p> <p><i>I understand that it is a criminal offense to give a Texas Motor Vehicle Sales Tax Exemption Certificate to the seller for a motor vehicle that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate and that the offense is a felony punishable by imprisonment for not less than two nor more than five years or a fine of not more than \$1,000, or both.</i></p>			
 Purchaser	Title	Date	

NOTE: THIS CERTIFICATE DOES NOT REQUIRE A TAXPAYER NUMBER TO BE VALID.

This certificate should be furnished to the seller. Do not send the completed certificate to the Comptroller of Public Accounts.

TEXAS MOTOR VEHICLE SALES TAX RESALE CERTIFICATE

Name of purchaser, firm or agency	Dealer number
Address (Street & number, P.O. Box or Route number)	Daytime phone (Area code and number)
City, State and ZIP code	

I, the purchaser named above, claim the right to make a non-taxable purchase for resale of the motor vehicle described below:		
Vehicle identification number	Make of vehicle	Year model
Seller		
Street Address		
City, state and ZIP code		
<p>Purchaser claims this vehicle is being purchased for resale purposes <u>ONLY</u>.</p> <p>I understand that I will be liable for payment of motor vehicle sales or use taxes which may become due if I fail to comply with the provisions of the Tax Code: Chapter 152. Taxes on Sale, Rental, and Use of Motor Vehicles.</p> <p><i>I understand that it is a criminal offense to give a Texas Motor Vehicle Sales Tax Resale Certificate to the seller for a motor vehicle that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate and that the offense is a felony punishable by imprisonment for not less than two nor more than five years or a fine of not more than \$1,000, or both.</i></p>		
 Purchaser	Title	Date

This certificate should be furnished to the seller. Do not send the completed certificate to the Comptroller of Public Accounts.

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



USED MOTOR VEHICLE CERTIFIED APPRAISAL FORM

INSTRUCTIONS

Any change to this form after completion voids the form in its entirety.

A licensed motor vehicle dealer or licensed insurance adjuster uses this form exclusively for the purposes of Section 152.0412, Tax Code and 34 T.A.C. § 3.79 concerning Standard Presumptive Value. The form must be filled out in full and be typed or legibly printed after the appraiser views the motor vehicle in person. A dealer may only provide an appraisal for the types of motor vehicles which the dealer is licensed to sell. The purchaser files this form with the county tax assessor-collector at the same time of titling and registering the vehicle. Do not send the completed form to the Comptroller of Public Accounts.

Under Ch. 559, Government Code, you are entitled to review, request, and correct information a governmental body has on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact the county tax assessor-collector where this form is filed.

PURCHASER INFORMATION			
Name <input style="width: 90%;" type="text"/>		Phone (Area code and number) <input style="width: 40%;" type="text"/> - <input style="width: 40%;" type="text"/>	
Address <input style="width: 90%;" type="text"/>	City <input style="width: 20%;" type="text"/>	State <input style="width: 20%;" type="text"/>	ZIP code <input style="width: 20%;" type="text"/>
MOTOR VEHICLE INFORMATION			
Year <input style="width: 20%;" type="text"/>	Make <input style="width: 20%;" type="text"/>	Model <input style="width: 20%;" type="text"/>	VIN <input style="width: 40%;" type="text"/>
			Odometer Reading <input style="width: 40%;" type="text"/>
APPRAISER INFORMATION			
Motor Vehicle Dealer or Licensed Insurance Adjuster Name <input style="width: 90%;" type="text"/>		Motor Vehicle Dealer or Licensed Insurance Adjuster Number <input style="width: 40%;" type="text"/>	
Address <input style="width: 90%;" type="text"/>	City <input style="width: 20%;" type="text"/>	State <input style="width: 20%;" type="text"/>	ZIP code <input style="width: 20%;" type="text"/>
Printed Name of Appraiser <input style="width: 90%;" type="text"/>		Phone Number <input style="width: 40%;" type="text"/> - <input style="width: 40%;" type="text"/>	
APPRAISAL INFORMATION			
Retail Value			\$ <input style="width: 40%;" type="text"/>
Explanation for Appraised Retail Value (e.g., identify mechanical, appearance, or other factors that affect the appraised retail value)			
<input style="width: 100%;" type="text"/>			
<input style="width: 100%;" type="text"/>			
<input style="width: 100%;" type="text"/>			
Appraisal Fee			\$ <input style="width: 40%;" type="text"/>
<i>See the other side of this form for details on appraising and fees.</i>			
SIGNATURE			
I hereby certify that I have seen this vehicle and all the statements in this document are true and correct to the best of my knowledge and belief.			
Signature of Appraiser <div style="display: flex; align-items: center;"><div style="margin-right: 5px;">sign here</div><input style="width: 150px; height: 20px;" type="text"/></div>		Date of Appraisal <input style="width: 150px; height: 20px;" type="text"/>	

If you make a false statement on this document, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

14-128 (Back) Motor Vehicle Tax: Appraising Used Motor Vehicles in Private-Party Sales by Licensed Motor Vehicle Dealers and Insurance Adjusters

Effective October 1, 2006, Tax Code Section 152.0412 allows a purchaser of a used motor vehicle in a private-party sale to get an appraisal to establish the amount of motor vehicle sales tax due. A private-party sale is one that does not involve a licensed motor vehicle dealer. This appraisal process does not involve dealer sales.

Eligible appraisers

Licensed Texas motor vehicle dealers can appraise the categories of motor vehicles that they are licensed to sell. That is, automobile dealers can appraise automobiles, motorcycle dealers can appraise motorcycles and trailer dealers can appraise trailers. Licensed dealers include new and used vehicle dealers, wholesale dealers, wholesale auction dealers, motorcycle dealers, trailer dealers and any other dealers licensed by Transportation Code, Chapter 503, Subchapter B, but not a drive-a-way operator.

An insurance adjuster can appraise any type of used motor vehicle.

Appraisal fee

Under the new law, the Comptroller sets the fee for a certified appraisal by a licensed Texas motor vehicle dealer. Comptroller Rule 3.79 (34 T.A.C. § 3.79) states that the fee can be no less than \$100 and no more than \$300, except for appraisals of motorcycles, house trailers, travel trailers and motor homes.

A licensed motorcycle dealer can charge no less than \$40 and no more than \$300 for a certified appraisal of a motorcycle. For a certified appraisal of a house trailer, travel trailer or motor home, the fee can be no less than \$100 and no more than \$500.

The law allows that licensed insurance adjusters set their own fees for a certified appraisal.

Appraisal form

The appraiser must use Comptroller form 14-128, *Used Motor Vehicle Certified Appraisal Form*, on the other side of this page. The form is available online at www.window.state.tx.us under "Texas Taxes." You can also call the Comptroller's toll-free number 1-800-252-1382 (in Austin, 463-4600), or write the Comptroller of Public Accounts, P. O. Box 13538, Austin, Texas 78711-3528.

Appraisal standards

The appraiser must view the motor vehicle in person and provide all the information requested on the appraisal form. The appraiser should identify mechanical, appearance or other factors that affect that retail value.

The form must be filled out in full. If an item does not apply, note "not applicable." Since any change to the appraisal form after completion voids the form in its entirety, please refrain from using crossed-out information.

The appraiser should keep a copy of the appraisal.

Questions

If you have questions or need more information, contact the Comptroller's office toll-free at 1-800-252-1382 or e-mail tax.help@cpa.state.tx.us.

Publication 96-1219, *Motor Vehicle Tax: Standard Presumptive Value and Calculating Tax Due on a Used Vehicle Purchase*, explains the law and its provisions and is available on the Comptroller's *Window on State Government* at www.window.state.tx.us.



Susan Combs
Texas Comptroller of Public Accounts

Motor Vehicle Dealer's Special Inventory

Instructions for Filing Forms and Paying Property Taxes



October 2007

Motor Vehicle Dealer's Special Inventory

Instructions for Filing Forms and Paying Property Taxes

For property tax purposes, Texas law requires that a motor vehicle dealer's inventory is appraised based on the total sales of motor vehicles in the prior year. Dealers must file with the county appraisal district a *Dealer's Motor Vehicle Inventory Declaration* form listing the total value of the inventory sold in the prior year. Also, the dealer must file with the county tax office a monthly form — *Dealer's Motor Vehicle Inventory Tax Statement* — listing the motor vehicles sold, and prepay their property taxes for each vehicle. Instructions for filing both forms follow.

Texas law permits the Comptroller's office to act only as an advisory agency with regard to property taxes. The Comptroller helps property owners and tax officials interpret the property tax laws. Texas law also requires the Comptroller to adopt forms for filing the motor vehicle dealer's inventory.

Steps to calculate, report and pay dealer's inventory property taxes:

Step 1 – A dealer files the *Dealer Motor Vehicle Inventory Declaration* form.

- file one declaration per year;
- file each January, between January 1 and 31;
- file with the county appraisal district and send a copy to the county tax office; and
- if you are a new dealer, file a declaration form within 30 days of the issuance of the dealer's general distinguishing number (GDN). A chief appraiser has the discretion to designate a different date.

Step 2 – A dealer reports current year's inventory market value.

Complete the following items on the *Dealer's Motor Vehicle Inventory Declaration* form:

- breakdown of sales for prior year (January – December);
- breakdown of sales amounts for prior year (January – December); and
- other general information about the retail business — mailing address, name and business location.

Divide sales amounts for inventory sales by 12 for current year's market value:

- the current year's tax bills received in October will be based on this market value and the current year's tax rates; and
- the inventory's market value is not the value of the dealer's motor vehicles on January 1 but an average of the regular monthly inventory sales from the preceding year.

Penalties

The chief appraiser of the county appraisal district must report to the Texas Department of Transportation any dealer that sells fewer than five vehicles in a prior year. The Department will begin dealer license termination proceedings.

A dealer who does not file a declaration form by February 1 of each year commits a misdemeanor punishable by a fine of up to \$500 per day until filed. A tax lien can be attached to the dealer's business personal property to secure payment of the penalty. A dealer forfeits an additional penalty of \$1,000 for each month or portion of month that it is not filed.

Step 3 – A dealer files the *Dealer's Motor Vehicle Inventory Tax Statement*:

- file 12 statements per year;
- file each month by the 10th of the following month. For example, file January inventory tax statement by February 10th.
- file with the county tax office, including a check for prepayment of taxes. Send a copy of the form to the county appraisal district. If you do not sell a motor vehicle during the month, you must file a tax statement indicating no sales; and
- if a new dealer, file each month, but do not send a prepayment of taxes.

Step 4 – A dealer makes a prepayment of taxes.

Calculate the unit property tax factor.

- Find the aggregate tax rate by adding the preceding year's tax rates for each taxing unit that taxes the retail business. Look either at the preceding year's tax bills or call the county tax collector. Each property is taxed by a county and by a school district. It also may be taxed by a city and special districts (such as a junior college and/or hospital district, depending on where the business is located).

Example of 2004 tax rates:

County tax rate	=	\$0.40	
School tax rate	=	\$1.40	
City tax rate	=	\$0.60	
Special district tax rate	=	\$0.05	
Aggregate rate	=	\$2.45	per \$100 of value

- Divide the aggregate tax rate by 12 for a tax rate per month.
Example: $\$2.45/12 = \0.20417 per \$100 of value.
- Divide the aggregate tax rate per month by \$100 for a tax rate per \$1.00 of sales price.
Example: $\$0.20417/\$100 = \$0.0020417$ rate per \$1.00 (unit property tax factor).
- Change the unit property tax factor each January to use the preceding year's tax rates.
Example: Use the 2004 adopted rates to determine the unit property tax factor for January through December 2005.

Report and pay the unit property tax payment.

- Multiply the sales price of the motor vehicle by the unit property tax factor. Subtract the motor vehicle's manufacturer's rebate from the sales price, but do not subtract the trade-in.
Example: $\$20,000 \times \$0.0020417 = \$40.83$ in tax prepayment.
- Apply unit property tax factor to each motor vehicle sold in a month and report to the county tax office, along with the tax prepayment. Send a copy of the monthly tax statement to the county appraisal district. Remember, it is considered a sale, even if the motor vehicle is taken out of Texas.

Step 5 – A dealer files a report of inventory sales monthly.

Report the following on the *Dealer's Motor Vehicle Inventory Tax Statement*:

- date of sale;
- model year of motor vehicle;
- make of motor vehicle;
- vehicle identification number;
- purchaser's name;
- type of sale:
 - A. MV — regular motor vehicle inventory sale — a motor vehicle is a fully self-propelled vehicle with at least two wheels which has the primary purpose of transporting people or property and includes a towable recreational vehicle. Motor vehicle does not include equipment or machinery designed and intended for a specific work-related purpose other than transporting people or property;
 - B. FL — fleet sale — sales of five or more motor vehicles from the dealer's inventory to the same buyer within one calendar year;
 - C. DL — dealer sales — sales of vehicles to another Texas dealer or a dealer who is legally recognized in another state as a motor vehicle dealer;
 - D. SS — subsequent sales — dealer-financed sales of motor vehicles that, at the time of sale, have dealer financing from the inventory in this same calendar year. The first sale is reported as a motor vehicle inventory sale, with sale of this same vehicle later in the year classified as a subsequent sale;
- sales price — is set forth on the application for Title, or would appear if that form was used;
- unit property tax value;
- total unit property tax value for each page and for the total report; and
- total sales — number of vehicles for each type of sale and by total sales amounts.

The chief appraiser may examine the books and records of the dealer by personally delivering a written request to the custodian of the records at the dealer's location. The request must be delivered at least 15 days prior to the date of the request to view the records and must contain a statement notifying the dealer that he or she may seek judicial relief from compliance with the request.

File the report and payment by the 10th day of the following month.

Step 6 – On behalf of the dealer, the county tax collector pays the annual inventory taxes from the dealer's escrow account and bills the dealer for any additional amount due.

Receives annual property tax bills, usually in October and November:

- taxing units send a copy of the dealer motor vehicle inventory tax bill to the county tax assessor-collector;
- dealer pays all other tax bills to the taxing units;
- county tax assessor-collector pays the inventory tax bill from the escrow account — usually in early January after the dealer's December payment — to the taxing units.

Receive tax receipt for payment and any additional tax bill from county tax assessor-collector for any deficiency in the escrow account:

- dealer must pay the deficiency by January 31 to avoid delinquent penalty and interest;
- if taxes become delinquent, dealer pays each taxing unit, plus penalty and interest;
- taxing units receive any excess taxes that remain in escrow account;
- the dealer may not withdraw funds from the escrow account; and
- the escrow account begins with a zero balance for the next tax year's prepayments.

Penalties

A dealer who does not file the monthly tax statement by the 10th day of the following month commits a misdemeanor punishable by a fine up to \$100 per day until filed. A tax lien can be attached to the dealer's business personal property to secure payment of the \$100 penalty. A dealer forfeits an additional penalty of \$500 for each month or portion of month that it is not filed. Furthermore, a dealer who fails to remit the taxes due pays a 5 percent late payment, with another 5 percent due if not paid within 10 days.

Questions

- Call the local county appraisal district for specific questions on the declaration form;
- call the local county tax office for specific questions on the monthly tax statement form; and
- call the Comptroller's Property Tax Division Information Services Team at (800) 252-9121 for general questions on the declaration or monthly tax statement forms. You may also contact us by e-mail at ptd@cpa.state.tx.us.

Remember

A dealer must list the property tax separately because it cannot be included in the sales price and sales tax assessed against it.

Motor vehicle dealer's special inventory laws are found in Property Tax Code Sections 23.121 and 23.122. You may view these sections on the Comptroller's Web site, Window on State Government at <http://www.window.state.tx.us/taxinfo/proptax/tc04/ch23b.htm>.



50-244 (Rev. 7-99/7)
[23.121- Rule 9.4035]

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DEALER'S MOTOR VEHICLE INVENTORY DECLARATION/CONFIDENTIAL

Send original to: Appraisal District name and address		YEAR	
Send copy to: County Tax Office name and address		Phone (area code and number)	
		Phone (area code and number)	
INSTRUCTIONS: If you own an inventory subject to the provisions of Sec. 23.121, Tax Code, you must file this dealer's motor vehicle inventory declaration with the chief appraiser and a copy with the county tax assessor-collector not later than February 1 of each year. If you were not in business on January 1, you must file this statement not later than 30 days after starting business. Failure to file this form is a misdemeanor offense punishable by a fine not to exceed \$500. Each day during which you fail to comply is a separate offense. SEE BACK OF FORM FOR MORE INFORMATION ON FILING AND PENALTIES.			
Step 1: Owner's name and address	Owner's name		
	Current mailing address (number and street)		
	City, town or post office, state, ZIP code		Phone (area code and number)
	Person completing application		Title
Step 2: Required information about the business	Name of each business at one location (attach additional pages if necessary)		
	Address of this location (street, number, city, state and ZIP code + 4) (attach additional pages if necessary)		
Step 3: Information about the business	Give appraisal district account number if available, or attach tax bill or copy of appraisal or tax office correspondence concerning this account (attach additional pages if necessary).		
	Starting date of business, if not in business on January 1st of this year.		
Step 4: Ownership statement	_____ (Owner's name) is the owner of a dealer's motor vehicle inventory.		
Step 5: Breakdown of sales and sales amounts	Breakdown of sales (number of units sold) for the previous 12-month period corresponding to the prior tax year. If you were not in business for the entire 12-month period, report the sales for the months you were in business.		
	Net motor vehicle inventory	Fleet sales	Dealer sales
	\$	\$	\$
	Breakdown of sales amounts for the previous 12-month period corresponding to the prior tax year. If you were not in business for the entire 12-month period, report the sales for the months you were in business.		
Net motor vehicle inventory	Fleet sales	Dealer sales	
\$	\$	\$	
Step 6: Market value of your motor vehicle inventory	State the market value of your motor vehicle inventory for the current tax year, as computed under Sec. 23.121, Tax Code (total annual sales from the dealer's motor vehicle inventory for the previous 12-month period corresponding to the prior tax year divided by 12 equals market value). If you were not in business for the entire 12-month period, report the number of months you were in business and the total number of sales for those months. The chief appraiser will determine your inventory's market value.		
	Dealer's Net Motor Vehicle Inventory Sales for Prior Year		Market Value for Current Tax Year
	\$ _____ ÷ 12 = \$ _____		
Step 7: Sign the form	Authorized signature sign here		Date
	If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.		

INSTRUCTIONS FOR COMPLETING

Dealer's Motor Vehicle Inventory Declaration

Filing deadlines: You must file this declaration not later than February 1 each year. If you were not in business for the entire year, you must file this declaration not later than 30 days after starting your business. You are presumed to have started business on the date you were issued a dealer's general distinguishing number. The chief appraiser, however, has discretion to designate a different starting date. Be sure to keep a completed copy of this declaration for your files and a blank copy of the form for next year's filing.

Filing places: You must file the original completed declaration with the county appraisal district's chief appraiser. You must file a copy of the original with the county tax assessor-collector. The addresses and phone numbers for both offices are at the top of the form.

Filing penalties: Failure to file this form is a misdemeanor offense punishable by a fine not to exceed \$500. Each day that you fail to comply is a separate offense. In addition, a tax lien attaches to your business personal property to secure the penalty's payment. The district attorney, criminal district attorney, county attorney, chief appraiser, or person designated by the chief appraiser shall collect the penalty, with action in the county in which you maintain your principal place of business or residence. You also will forfeit a penalty of \$1,000 for each month or part of a month in which this declaration is not filed after it is due.

GDN Termination: If you report fewer than five sales of motor vehicles, the chief appraiser must report this fact to the Texas Department of Transportation (TxDOT). TxDOT has authority to view this form in auditing dealer license compliance. TxDOT must initiate termination proceedings.

Review of records: The chief appraiser may examine your books and records for (1) the document issued by Texas Department of Transportation for your general distinguishing number; (2) documents to determine if this declaration applies to you; and (3) sales records to check information on this declaration. To examine your records, the chief appraiser must deliver personally a written request to your records custodian. You have at least 15 days to respond to the request, or you may seek court action for relief from complying with the request. Failure to comply with the request is a misdemeanor punishable by a fine not to exceed \$500. Each day that you fail to comply is a separate violation.

Step 1: Owner's name and address. Give the corporate, sole proprietorship or partnership's name, including mailing address and telephone number of the actual business location required by the inventory declaration (not of the owner).

Step 2: Required information about the business. Give the name of the business if different from the corporation or individual's name. The address here is the actual physical location of the business.

Step 3: Information about the business. Include your business' account number from the appraisal district's notice of appraised value. Give the date your business opened if not in business January 1 of this year.

Step 4: Ownership statement. Give the owner's name.

Step 5: Breakdown of sales and sales amounts. Complete the boxes on number of sales and sales amounts for the preceding year. The top row of boxes is the number of units sold in each category. The bottom row of boxes is the dollar amount sold in each category.

The categories include:

Motor vehicle inventory – sales of motor vehicles. A motor vehicle is a fully self-propelled vehicle with at least two wheels which has the primary purpose of transporting people or property and includes a towable recreational vehicle. Motor vehicle does not include equipment or machinery designed and intended for a specific work-related purpose other than transporting people or property.

Fleet sales – motor vehicles included in the sale of five or more motor vehicles from your inventory to the same buyer within one calendar year.

Dealer sales – sales of vehicles to another Texas dealer or a dealer who is legally recognized in another state as a motor vehicle dealer.

Subsequent sales – dealer-financed sales of motor vehicles that, at the time of sale, have dealer financing from your motor vehicle inventory in this same calendar year. The first sale of a dealer-financed vehicle is reported as a motor vehicle inventory sale, with sale of this same vehicle later in the year classified as a subsequent sale.

Net motor vehicle inventory – motor vehicle inventory less fleet sales, dealer sales and subsequent sales.

Step 6: Market value of your motor vehicle inventory. Enter the dollar sales amount in the net motor vehicle inventory breakdown (see Step 5, the first box in the second row) and divide by 12 to yield your market value for this tax year. If you were not in business for the entire preceding year, the chief appraiser will determine your inventory's market value using the sales information that you report in Step 5.

Step 7: Sign the form. Sign and enter the date if you are the person completing this declaration.

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Instructions for Dealer's Motor Vehicle Inventory Tax Statement

If you are an owner of an inventory subject to Sec. 23.121, Tax Code, you must file this dealer's motor vehicle inventory tax statement as required by Sec. 23.122.

Filing deadlines: You must file this statement on or before the 10th day of each month. If you were not in business for the entire year, you must file this statement each month after your business opens, but you do not include any tax payment until the beginning of the next calendar year. You are presumed to have started business on the date you were issued a dealer's general distinguishing number. The chief appraiser, however, has sole discretion to designate a different starting date. However, if your dealership was the purchaser of an existing dealership and you have a contract with the prior owner to pay the current year motor vehicle inventory taxes owed, then you must notify the chief appraiser and the county tax assessor-collector of this contract and continue to pay the monthly tax payment. Be sure to keep a completed copy of the statement for your files and a blank copy of the form for each month's filing.

Filing places: You must file the original statement with your monthly tax payment with the county tax assessor-collector. You must file a copy of the original completed statement with the county appraisal district's chief appraiser. The addresses and phone numbers for both offices are at the top of the form. Texas Department of Transportation has authority to view this form in auditing dealer license compliance.

Filing penalties: Late filing incurs a penalty of 5 percent of the amount due. If the amount is not paid within 10 days after the due date, the penalty increases for an additional penalty of 5 percent of the amount due. Failure to file this form is a misdemeanor offense punishable by a fine not to exceed \$100. Each day that you fail to comply is a separate offense. In addition, a tax lien attaches to your business personal property to secure the penalty's payment. The district attorney, criminal district attorney, county attorney, collector, or person designated by the collector shall collect the penalty, with action in the county in which you maintain your principal place of business or residence. You also will forfeit a penalty of \$500 for each month or part of a month in which this statement is not filed after it is due.

Annual property tax bill: You will receive a separate tax bill(s) for your motor vehicle inventory for each taxing unit that taxes your property, usually in October. The county tax assessor-collector also will receive a copy of the tax bill(s) and will pay each taxing unit from your escrow account. If your escrow account is not sufficient to pay the taxes owed, the county tax assessor-collector will send you a tax receipt for the partial payment and a tax bill for the amount of the deficiency. You must send to the county tax assessor-collector the balance of total tax owed. You may not withdraw funds from your escrow account.

Step 1: Owner's name and address. Give the corporate, sole proprietorship or partnership's name, including mailing address and telephone number of the actual business location required by the monthly statement (not of the owner). Give the person's name and title that completed the statement.

Step 2: Information about the business. Give the address of the actual physical location of the business. Include your business' name and the account number from the appraisal district's notices.

Step 3: Information on each vehicle sold during the reporting month. Complete the information on each motor vehicle sold, including the date of sale, model year, model make, vehicle identification number, purchaser's name, type of sale, sales price and unit property tax. The footnotes include:

¹ **Type of Sale:** Place one of the following codes by each sale reported:

MV - motor vehicle inventory - sales of motor vehicles. A motor vehicle is a fully self-propelled vehicle with at least two wheels which has the primary purpose of transporting people or property and includes a towable recreational vehicle. Motor vehicle does not include equipment or machinery designed and intended for a specific work-related purpose other than transporting people or property. Only if its type of sale has a unit property tax value (see below).

FL - fleet sales - motor vehicles included in the sale of five or more motor vehicles from your inventory to the same buyer within one calendar year.

DL - dealer sales - sales of vehicles to another Texas dealer or a dealer who is legally recognized in another state as a motor vehicle dealer.

SS - subsequent sales - dealer-financed sales of motor vehicles that, at the time of sale, have dealer financing from your motor vehicle inventory in this same calendar year. The first sale of a dealer-financed vehicle is reported as a motor vehicle inventory sale, with sale of this same vehicle later in the year classified as a subsequent sale.

² **Sales Price:** The price as set forth on the application for Certificate of Title, or would appear if that form was used.

³ **Unit Property Tax:** To compute, multiply the sales price by the unit property tax factor. For fleet, dealer and subsequent sales that are not included in the net motor vehicle inventory, the unit property tax is \$-0-. The unit property tax factor is the county aggregate tax rate divided by 12 and then by \$100. Calculate your aggregate tax rate by adding the property tax rates for all taxing units in which the inventory is located. Use the property tax rates for the year preceding the year in which the vehicle is sold. If the county aggregate tax rate is expressed in dollars per \$100 of valuation, divide by \$100 and then divide by 12. Dividing the aggregate rate by 12 yields a monthly tax rate and by \$100 to a rate per \$1 of sales price.

⁴ **Total Unit Property Tax for This Month:** Enter only on last page of monthly statement.

Step 4: Total sales. Provide totals on last page of monthly statement of the number of units and the sales amounts for vehicles sold in each category.

Step 5: Sign the form. Sign and enter the date if you are the person completing this statement.

CHAPTER 8.

LESSORS AND LEASE FACILITATORS

8.1 Definitions. In 1995 the regulation of Lessors and Lease Facilitators was begun as a new program under the administration of the MVD. Rules specifically for the leasing of motor vehicles were promulgated in November, 1995. These rules are found in the Texas Administrative Code, at 43 TAC §§8.171-8.181. The following definitions come from these regulations.

a. Motor Vehicle Lease. A lease means the transfer of the right to possession of a use of a motor vehicle for a term in excess of 180 days, in return for consideration. This does not include those rental companies who rent vehicles for less than 180 days.

b. Lessor. A lessor is a person who owns a vehicle pursuant to the terms of a lease and transfers to another person the right to possession and use of a motor vehicle titled in the name of the lessor.

c. Lease Facilitator. A lease facilitator is a person, other than a franchised dealer or a bona fide employee of a dealer, or a vehicle lessor or a bona fide employee of a vehicle lessor, who solicits a person to enter into a lease for a motor vehicle. The vehicle is not, and will not be, titled or registered in the name of the lease facilitator.

8.2 License Required. Any person who engages in the business of leasing motor vehicles as a lessor or lease facilitator must be licensed by the Motor Vehicle Division unless otherwise exempt by law. The law does not require a separate license for each individual employee of a lessor or lease facilitator. A lessor license includes the right to facilitate leases for the lessor's own business and a separate lease facilitator license is not needed for a lessor unless the lessor intends to facilitate leases for other lessors.

8.3 License Exemptions. The following persons are not required to obtain a lessor or lease facilitator license:

- a state or federally chartered financial institution;
- a regulated subsidiary of a state or federally chartered financial institution;
- a trust or other entity that owns an interest in a lease that was initiated, managed, serviced, and administered by a licensed lessor;
- a franchised dealer who is leasing those vehicles he is licensed to sell.

8.4 "Lease" or "Leasing" in Name of Company. The terms "lease" or "leasing" or any variation of those words cannot be used in a person's business name, unless that person qualifies as a leasing company and is licensed as a lessor or lease facilitator or is otherwise exempt from the licensing requirement as set out in section 8.3 above. If a person has these terms in their business name because they are engaged in the business of leasing something other than motor vehicles (e.g. equipment, furniture, etc.), then they must obtain an assumed name without these terms in order to receive a dealer license.

8.5 Application for a Lessor or Lease Facilitator License. The application for a lessor or lease facilitator's license must be on the form prescribed by the Motor Vehicle Division. A complete license application packet may be obtained by calling, or emailing the MVD, or going to the TxDOT website at http://www.txdot.gov/txdot_library/forms/business/vehicle_dealers/vehicle_dealer_licensing.htm requesting the proper application. Care should be taken to fill out all blanks and submit the application with the proper supporting documents which include:

- Any letters of appointment a lessor has issued to lease facilitators. If the application is for a lease facilitator, they should include any and all letters of appointment they have received from each lessor;
- a verification that each owner and officer of the applicant required to be listed on the application has not been convicted of any felony;
- the proper fee for each type of license required;
- photographs clearly depicting the overall appearance of the interior and exterior of the applicant's office;
- verification of all assumed name(s) by submitting copies of the assumed name certificate(s) that are on file with the appropriate recording entity such as the Secretary of State or county clerk;
- a verification of the business entity, such as a copy of the Certificate of Incorporation on file with the Secretary of State, or a partnership agreement;
- a sample copy of the motor vehicle lease agreement with a lessee;
- a list of all lessors with names and addresses with which a lease facilitator does business. If the letters of appointment mentioned in number 1 include the names and addresses, those will suffice;
- business background information for each principal or officer of the entity required to be listed on the application;
- a copy of the deed or the lease agreement for the business location showing the names of the lessor and lessee; a legal description of the property or street address; and the period of time for which the lease is valid that should coincide with the same period of time as the license.

8.6 Premises Requirements. A lessor located in Texas or lease facilitator must have a permanent and established place of business from which, in good faith, business is conducted, and records are kept. Requirements for the physical location include:

- A structure of sufficient size to accommodate the business, equipped with a desk and chairs and a working land-based telephone instrument listed in the name under which the lessor or lease facilitator does business;
- If the office is located in a residential structure, the office must be separated completely from and have no direct access into the residential quarters. This home office cannot be used as a part of the living quarters and must be readily accessible to the public without going through the living quarters. Of course, the residential office must comply with all local zoning ordinances and deed restrictions;
- portable-type office structures may qualify, but they must meet the same requirements as above;
- a sign which sets out the business hours the office will be open for business to the public;
- the licensed premises must have a permanent business sign that can be readable by the passing public. The sign should show the name under which the lessor or lease facilitator conducts business. Outdoor signs must contain letters not smaller than six inches in height. A variance in this height rule may be considered if the licensee can show that local zoning requirements limit the sign lettering to less than six inches.
- any lease facilitator must have an established and permanent place of business which is physically located within the state of Texas.
- a lessor or lease facilitator may not office in a financial institution or a dealership unless that lessor or lease facilitator is a bona fide employee of or the leasing business owned by the dealership.
- a one-year lease or deed for the premises.

8.7 Premises Requirements for Out of State Lessors. If a lessor is located outside of this state and the lessor does not deal directly with the public to execute leases, then the physical location is acceptable if each lessor at a business location has a separate desk; a separate land-based telephone listed in their name; and a sign showing the name under which the lessor conducts business that is readable by the general public. A deed or a lease for the business location, continuous for the same period of time as the license and containing the names of the landlord and tenant; a legal description of the property or street address; and the period of time for which the lease is valid.

8.8 Business Hours. Any lessor or lease facilitator within Texas must be open to the public during normal working hours which must be posted at the main entrance of the office. No specific hours are required, but a bona fide employee must be available at that location during the posted business hours to assist customers or representatives of MVD who may wish to inspect records.

8.9 More Than One Location. Lessors are required to obtain a license for their primary location. Lessors must also provide the address, telephone number, and the name of a contact person for all other satellite offices that conduct business in the State of Texas.

If a lessor moves from outside a city limits to inside city limits or from one city to another city, then a new license must be obtained.

A lease facilitator who operates in this state must have a separate license for each business location.

8.10 Records Required to be Kept by Lessors and Lessees. Lessors and lease facilitators are required to keep accurate records on every motor vehicle leased. Licensees are required to cooperate and assist an MVD representative in providing all information requested from the required records. Failure or refusal to cooperate by withholding records or failing to maintain records is subject to a civil penalty or suspension or revocation of the license.

8.11 Inspection of Records. Records are required to be readily available and subject to inspection during regular business hours at the licensed location upon request by a MVD representative. All records need to be kept for each transaction until one year after the expiration of the lease. Records reflecting lease transactions within the preceding 13 months must be kept at the licensed location. Records for prior time periods may be kept off-site at a location within the same county or within 25 miles from the licensed location.

Rather than inspecting records at the licensed location, MVD representatives may request copies of records by certified mail. A licensee must provide those records within 15 days of the certified mail request.

8.12 Content of Records To Be Kept. A lessor or lease facilitator is required to keep the following items in each lease file:

- Names, addresses and telephone numbers of the lessor and lessee in each transaction;
- Names, addresses and telephone numbers of the lease facilitator and/or any employee of the facilitator who handled the transaction;
- Name, address, telephone number and GDN or dealer license number of the dealer selling the vehicle;
- A complete description of the vehicle including VIN, make, model, color, etc.;
- The amount of fee paid by and received by the lease facilitator;
- Copies of all contracts, agreements, or disclosures between the lease facilitator and the consumer;

- Copy of the buyer's order and sales contract wherein the lessor bought the vehicle from the dealer;
- Copy of the front and back of the Manufacturer's Statement/Certificate of Origin or the title of the vehicle involved in the transaction.

8.13 Advertising Records to be Kept. Lessor's and lease facilitator's must maintain copies of all advertisements, brochures, scripts or electronically reproduced copies, in whatever medium appropriate, for 18 months. These records are also subject to inspection by the MVD personnel as required.

8.14 Subject to Advertising Rules. Lessors and lease facilitators are required and expected to adhere to the same advertising rules that motor vehicle dealers adhere to. This includes the MVD Rules and the Federal Trade Commission advertising rules along with any other federal rules involving leases.

8.15 Title Assignments. All certificates of title, manufacturer's certificates of origin or other evidence of ownership for vehicles which have been acquired by a lessor for lease must be properly titled to the lessor by the selling dealer. Only vehicles being sold to a lessor located out of the state would not be titled by the dealer, but the dealer should have the Comptroller's form (Texas Motor Vehicle Sales Tax Exemption Certificate--For Vehicles Taken Out of State) signed and placed in the sales file.

8.16 No Fees From Dealers. Lessors may not directly or indirectly accept a fee from a dealer. This prohibition includes referral fees paid for referring leases or prospective lessees to a dealer but does not include any adjustment in the purchase price for a leased vehicle.

8.17 No Fees to Unlicensed Persons. Lessors may not pay a fee to another person for finding potential lease customers unless that person is a licensed lease facilitator who also has a valid letter of appointment from the lessor that is on file with the MVD. This prohibition on fees does not include any fee paid to a franchised dealer who sells the vehicle or transfers the lease contract to the lessor of the vehicle.

8.18 Referral Fees Prohibited. Lessors and lease facilitators may not, directly or indirectly, accept a fee from a dealer for referring customers who purchase or consider purchasing vehicles.

8.19 Letters of Appointment. Lessors may use non-employees as lease facilitators to represent them as facilitators between the consumer lessees and the lessor. These non-employees must have an appointment in writing which discloses the terms on which the lease facilitator will facilitate leases for the lessor. These letters of appointment must be filed with the MVD. The appointment may be in a letter form. Copies of all letters of appointment issued by the lessor to the lease facilitator should be kept by both the lessor and lease facilitator. The MVD should be sent copies of additional letters of appointment that are issued between the license renewal periods.

8.20 Disclosures in Lease Contracts with Consumer Lessees. If a lease facilitator is responsible for soliciting or producing the consumer for the lessor, then the lessor must disclose in the consumer's lease contract, that a fee was paid or will be paid to the lease facilitator for his or her services. While the amount of the fee is not required to be disclosed, the fact that a fee was paid is required. This disclosure is required to be in a prominent position either on the face of the lease contract or memorandum, or on a separate document that is signed by the lessee at the same time as the signing of the lease contract.

8.21 Lease Cannot Prohibit Foreign Entries. A lease agreement cannot prohibit the lessee from taking the leased vehicle into a specific foreign country unless the lease agreement prohibits the lessee from taking the leased vehicle into all foreign countries.

8.22 Prohibitions on Lease Facilitators. Lease facilitators may be subjected to a civil penalty, or have their license revoked or suspended if they:

- sell or offer to sell a new or used motor vehicle;
- accept a fee from a dealer;
- sign a motor vehicle manufacturer's statement of origin to a vehicle, accept an assignment of a manufacturer's statement of origin to a vehicle, or otherwise assume any element of title to a new motor vehicle;
- procure or solicit prospective lessees for or on behalf of any person other than a licensed lessor; or
- act in the capacity of or engage in the business of a lease facilitator without a valid license issued by the Motor Vehicle Division and a valid appointment from a lessor to act on behalf of the lessor in soliciting prospective lease clients or customers.

8.23 Prohibitions on Both Lease Facilitators and Lessors. Lessors and lease facilitators will be subjected to sanctions if they:

- fail to maintain an established place of business conforming to the requirements of the Department;
- fail to permit examination of their leasing or advertising records by a representative of MVD;
- fail to notify the MVD of a change of address, name or ownership within ten days after such change;
- fail to remain regularly and actively engaged in the business of leasing or facilitating the leasing of vehicles;

- use or allow the use of a leasing or lease facilitator license for the purpose of avoiding any provisions of the law;
- violate any law relating to the sale, distribution or insuring of motor vehicles;
- fail to update in writing the list of lessors, including names and addresses, with which any lease facilitator executes leases within 10 days of any changes to this list and upon renewal of the license;
- makes a material misrepresentation in any application or other information filed with the MVD;
- violate any state or federal law relating to the leasing of new motor vehicles.

8.24 Lease Facilitator's Fees. A lease facilitator may accept a fee for procuring a vehicle lessee or prospective vehicle lessee for or on behalf of a lessor from either the lessor or the lessee, but not from a dealer.

8.25 Appointments of Lease Facilitators. A lease facilitator may accept appointments from more than one lessor. See §8.19.

8.26 Required Lemon Law Notice to Lessees. Lessors and lease facilitators are required to provide notice of the complaint procedures under the Texas Lemon Law to each lessee of a new motor vehicle with whom they transact a lease. See page 11-4 for the form.

8.27 Lessors and GDNs. Lessors do not need a GDN license to sell vehicles which they own, either to the lessee or a duly licensed dealer, either directly or through a licensed wholesale auction. Lessors are not allowed to buy vehicles from an auction with their lessor license. Should a lessor desire to sell their lease vehicles to the general public, they are required to have a GDN and meet all the requirements of premises and records retention that pertain to GDNs.

CHAPTER 9.

CONVERTER'S OPERATIONS

9.1 Definition of Conversion and Converters. According to the Texas Occupations Code, Chapter 2301, a "conversion" means a motor which has been substantially modified by a person other than the manufacturer or distributor of the chassis of the motor vehicle and which has not been the subject of a retail sale, unless the modification results in a motor home, ambulance, or fire-fighting vehicle.

A "converter" means a person who prior to the retail sale of a motor vehicle, assembles, installs, or affixes a body, cab, or special equipment to a chassis, or who substantially adds, subtracts from, or modifies a previously assembled or manufactured motor vehicle unless the resulting vehicle is a motor home, ambulance, or fire-fighting vehicle.

A "retail sale" is defined as the sale of a motor vehicle except: (A) a sale in which the purchaser acquires a vehicle for the purpose of resale; or (B) a sale of a vehicle that is operated under and in accordance with Section 503.061 of the Texas Transportation Code, which allows for the use of metal dealer's license plates. Section 2301.252 of the Texas Occupations Code, Chapter 2301 provides that a person must have a valid franchised dealer's license for the make or makes of new motor vehicles being bought, sold, or exchanged and that the "make" of a conversion is that of the chassis manufacturer.

What this means in "plain" English is that a new motor vehicle that has something substantial done to it prior to it being sold to the end-user customer must be sold to the end-user by a Texas dealer franchised and licensed to sell the make of the chassis of the converted product. Neither converters nor their representatives or the manufacturers are allowed to sell converted products in Texas at retail.

9.2 Licenses necessary. The licenses needed to correctly sell such converted products in Texas, including by bid, are as follows:

Manufacturer's license: The entity that built the chassis, cab and chassis, or entire vehicle, depending on the extent of the conversion.

Converter's license: The entity that performed the conversion work on the chassis, cab and chassis, or entire vehicle.

Representative's license: The entity that acted as a representative for the converter (if the converter employs or contracts with a person as a representative).

Franchised dealer's license: The Texas dealer that is licensed to sell the make of the chassis, cab and chassis, or entire vehicle.

For example, if the conversion is being performed on a new heavy-duty International truck, then International Truck and Engine Corporation would have the manufacturer's license and the entity that ultimately sells the converted product would be a licensed International dealer. If the conversion was performed on a new Ford light truck, then Ford Motor Company would have the manufacturer's license and the entity that ultimately sells the converted product would be a licensed Ford dealer. If the vehicle on which the conversion is performed is a Ford truck, then the converted product should be considered a new Ford truck with "something on it."

9.3 How the converter invoices. The franchised dealer must handle the title work for the new motor vehicle, invoice the customer, and collect the entire purchase price of the new vehicle. The dealer must sell the new motor vehicle; allowing the converter or representative to invoice the customer makes it appear that the converter is selling the new motor vehicle. Once the conversion work has been done, the unit is a "new motor vehicle with something on it" and the complete unit, including the "body," must be sold by a franchised and licensed dealer of the underlying chassis.

9.4 How the converter bids on a complete vehicle. A franchised dealer for the underlying chassis must be listed on the bid as the seller of the complete unit; the purchase order must be from the franchised dealer for the complete unit; the payment for the complete unit must be made to the franchised dealer; and the franchised dealer must perform necessary title work on the complete new motor vehicle. The converter can be involved in the bidding process by providing information on the specifications of the conversion package and other relevant information and assistance in drafting the bid; however, a franchised dealer and only a franchised dealer can sell the unit.

9.5 After-market conversions. The question often arises if a customer (private or government) bought and paid for a new cab and chassis from a franchised dealer then later purchased a conversion body mounted by a licensed converter, could the converter invoice the body and conversion work to the customer? The answer lies within the sequence of events. If the customer bought the vehicle first and then took it to someone to have special equipment or a body installed, this is an "after-market" conversion. This transaction would not be subject to regulation by the Texas Occupations Code, Chapter 2301, as long as the end-user customer pays the converter only for the body and the installation of the body, and the franchised dealer that sold the cab and chassis has done the title work on the completed vehicle. Because this vehicle has not been titled, it is still on a Manufacturer's Certificate of Origin (MCO), and franchised dealers are the only licensees that are allowed to turn MCOs into the tax offices to have titles issued in the name of the purchasers.

9.6 Purchases from an out-of-state converter by an in-state customer. If the vehicle is not delivered to the Texas customer by the converter *and no sales activity occurs in Texas*, including advertising, signing of documents, opening of a bid, etc., then the activity is not regulated by Texas law. Any Texas consumer can go to any other state and buy a vehicle without that out-of-state entity having to receive a license from Texas.

But the customer must go to the dealer or converter or whoever, not the other way around. Please note that bidding on a vehicle to be sold to a Texas consumer, including a municipality, is considered sales activity in Texas.

9.7 Warranty repairs or service work on converted products. One of the main reasons converters are required to be licensed is because of warranty issues. The converter can still train and provide service on the special equipment or body that they install. What they are not allowed to do is sell the new motor vehicle that their equipment is mounted on. So, if the service or warranty issues involve the conversion package, then the converter is responsible for that work. Any licensed and franchised dealer of the line-make of the chassis would be responsible for the warranty work on the chassis.

9.8 Selling a converted unit directly to a franchised dealer. This is not a retail sale. The converter would technically have to sell the converted new motor vehicle to the franchised dealer in order for the franchised dealer to sell the converted new motor vehicle to the end-user customer.

9.9 Buying or selling a new converted unit to out-of-state customers. No one but a franchised dealer of the underlying chassis can sell a converted new motor vehicle in Texas. Other states may have different laws governing the sales of converted vehicles. Check with the individual state or states to determine what their laws permit.

9.10 Selling Conversion Demonstrators. Converters sometimes have new converted motor vehicles in their stock that they commit to being demonstrators and will title these units in the name of the converter. If the converter did not purchase the vehicle for their personal use, but only to use it as a demonstrator for their business and get someone else to buy it, the sale of the unit to the converter was not a "retail sale", as it was for the purpose of resale, and the unit is still a new motor vehicle. If it's still a new motor vehicle, then it can only be sold by a franchised and licensed dealer for the underlying chassis, even though a title has been issued for the vehicle.

9.11 Converter Plates. The Texas Transportation Code was amended in 1999 to allow converters to purchase metal converter license plates to attach to vehicles that they are engaged in the business of assembling or modifying, instead of having to title and register the vehicle. Converters may also obtain temporary cardboard tags to use on unregistered vehicles in order to demonstrate the complete unit to prospective buyers who are employees of a franchised motor vehicle dealer, or convey the vehicle under certain circumstances.

CHAPTER 10.

COMPLIANCE

10.1 Codes and Rules. Codes are statutes or laws and are known as “black letter law.” Any changes to the codes require action by the Texas Legislature which meets every other year. Rules are the regulations that the commissions and boards of agencies pass to clarify the laws and set out the details as to how the law will be administered. Rules are easier to change as they may be presented to the board or commission at any time. So while the Codes may change only every other year, the rules may be changing at any time. The rules are considered laws and carry the same weight as a code provision. A dealer needs to keep abreast of the various laws and the changes that may occur by attending seminars and reading special mail-outs from the different agencies. This is another reason why it is very important to keep the different agencies informed as to the dealership's current address.

The specific codes and rules to be discussed in this chapter involve the following:

a. Texas Occupations Code. The Texas Occupations Code (formerly the Texas Motor Vehicle Commission Code) historically has regulated the relationship between franchised dealers and their manufacturers. Since the Motor Vehicle Division acquired jurisdiction of the independent dealers and the general dealer law, the Occupations Code has evolved to also include independent dealers and is applied in transactions involving used vehicles. Leasing of vehicles and the licensing of lessors and lessees is found in this Code, as is the direction to regulate advertising. Fines under the Occupations Code can range as high as \$10,000 per violation, per day, of a continuing violation.

b. The Texas Transportation Code. The Transportation Code is a large set of laws involving everything from motor carriers, driver's licensing and traffic signals to titling of vehicles. The dealer law that the Motor Vehicle Division administers is Chapter 503. In this chapter, you will find the dealer licensing requirements and laws regarding dealer plates and temporary tags. Fines under this chapter can run from \$50 to \$5,000 if pled under the criminal penalty portion in §503.094, in addition to a civil penalty of \$50 to \$1000. However, for more serious violations of the Transportation Code, Section 2301.801 of the Texas Occupations Code allows a civil penalty of up to \$10,000 for violations of §503.038(a) of the Transportation Code.

c. The GDN Rules. All the rules adopted by administrative agencies in Texas are compiled in a set of law books known as the Texas Administrative Code (TAC). All rules adopted by the Texas Transportation Commission and the former Texas Motor Vehicle Board along with the rules promulgated to administer Transportation Code Chapter 503 (known as the GDN rules) are found in Title 43, Chapter 8 of the TAC. The GDN rules detail the requirements of getting a license, premises requirements and some general operation guidelines. They also set out under

what circumstances metal plates and tags may be used and how to fill out temporary tags.

d. Advertising Rules. All rules promulgated by the Texas Transportation Commission regarding advertising motor vehicles are found at 43 TAC §§8.241-8.271. These rules apply to both new and used vehicles unless explicitly stated otherwise in the rule.

e. Leasing Rules. In 1995, the Legislature passed a law that amended the Occ. Code requiring licensing of lessors and lease facilitators. Rules adopted by the Texas Transportation Commission regarding requirements for licenses, records and premises are found at 43 TAC §§8.8.171-8.181.

f. Lemon Law Rules. Warranty performance obligations set out in §2301.601et seq. of the Occupations Code are commonly known as the Lemon Law. The rules that set out how the Lemon Law will be administered are found at 43 TAC §§8.201-8.210. This is where you will find out how a vehicle qualifies for repurchase or repair under the Lemon Law and how complaints of consumers are handled.

g. Other Laws. Dealers are responsible to many different agencies for many laws on the local, state and federal level. The Texas Finance Code, the Texas Tax Code and the Deceptive Trade Practices Act are just a few examples. Cities have zoning and signage ordinances. Some cities require additional licenses for motor vehicle dealers. Federal agencies such as OSHA and EPA have serious penalties for violations of emission and work place standards.

10.2 Specific Violations Under Codes or Rules. All the aforementioned codes and rules set out specific procedures for obtaining a license and requirements for running certain aspects of a dealer's business. Failure to abide by these laws may subject a dealer to a civil penalty or the cancellation of his license. The following are specific violations found in these laws. Many have been discussed in depth in previous chapters of this book. These violations are found in the Transportation Code §503.038:

a. Falsifying or forging documents. A dealer may not falsify or forge a title document, including an affidavit making application for a certified copy of a title.

b. Filing a false or forged document. A dealer may not file a false or forged tax document, including a sales tax affidavit.

c. Keeping Open Titles. A dealer may not fail to take assignment of any basic evidence of ownership, including a certificate of title or manufacturer's certificate, for a vehicle the dealer acquires, known as an "open title." Receiving, holding or delivering an open title is a violation and a very risky way to conduct business. An open title is like a blank check.

d. Not assigning titles. A dealer may not fail to assign any basic evidence of ownership, including a certificate of title or manufacturer's certificate, for a vehicle the dealer sells.

e. Misuse of plates or tags. A dealer may not use or permit the use of a metal dealer's license plate or a dealer's temporary cardboard tag on a vehicle that the dealer does not own or control or that is not in stock and offered for sale. Not filling out all the required information on the tags as required, or giving out more than one red tag on a sale is also prohibited.

f. Making Material Misrepresentations on Applications. If a person misrepresents a fact on any application to the department, whether it is a false statement of ownership, a false response to the felony question or a designation of a false place of business, a serious violation has occurred. Such violations could result, at the minimum, in denial of the application and possibly could result in a civil penalty.

g. Failing to maintain qualifications for GDN. The initial requirements to get a license must be maintained throughout the license period. This includes all requirements as to signs, business hours, office requirements, phones, allotted spaces, leases, etc. The department may deny an application for a license, revoke or suspend an outstanding license, impose a civil penalty or place on probation a person whose license has been suspended or reprimand a licensee for any of the reasons set forth in the Occ. Code. Civil penalties can range from \$50 to \$10,000 per violation per day.

The department shall cancel a dealer's GDN if the dealer obtains the number by submitting false or misleading information. A person whose GDN is canceled under this chapter shall surrender to a representative of the department each license plate, temporary cardboard tag, sticker and receipt issued under this chapter not later than the 10th day after the date the GDN is canceled. The department shall direct any peace officer to secure and return to the department any plate, tag, sticker or receipt of a person who does not comply with this subsection. A person whose GDN is canceled automatically loses any benefits and privileges afforded under Texas Transportation Code Chapter 501 to the person as a dealer.

h. Refusal to provide evidence of being in business. A dealer may not fail to provide to the department within 30 days after the date of demand by the department satisfactory and reasonable evidence that the person is regularly and actively engaged in business as a wholesale or retail dealer.

i. Not Remaining Regularly and Actively Engaged in the Business. Those people who are not really in the business as dealers normally carry a license for some other nefarious purpose. Maybe they just want a license to avoid paying sales tax for their personal vehicles, or possibly, they want access to the auction to buy their own vehicles at wholesale. Regardless, those persons who make fewer than five (5) retail sales per year will have their license challenged. In recent years, the Texas

Legislature passed a law *requiring* tax appraisal districts to turn in to the MVD the names of any dealers who either fail to file the annual VIT declaration and monthly statements or do not sell five vehicles within the calendar year.

j. Failing to Report or Pay Taxes. Although the MVD does not collect taxes, should dealers fail to properly report and pay state sales taxes or vehicle inventory taxes, such failure could result in additional penalties and revocation of licenses from this agency.

k. Misuse of license. Misuse of a license involves any use of the license for purposes other than that specifically contemplated under the dealer law. Lending license numbers to unlicensed entities to buy or sell vehicles, or using the dealer location for illegal purposes are examples of misuse of a license.

l. Off-site Sales, Curbstoning. Dealers are not allowed to sell vehicles from anywhere but their duly licensed premises. (43 TAC 8.136) Dealers are strictly prohibited from curbstoning, which is the practice of selling vehicles away from a dealer's licensed location. Dealers are also subject to penalty if they aid and abet curbstoning by selling vehicles to persons who practice curbstoning. Exceptions to this are the permitted shows and displays discussed in Section 4.20 of this manual.

m. Failure to apply for title within 20 working days of the date of sale. The most common complaint received from consumers is they have not received their plates or title to the vehicle within 20 working days of the purchase. See also Chapter 4, Section 4.8. There are only two valid defenses to this violation. The first defense is if the consumer has misrepresented their credit history on a credit application. In that instance, the dealer has the right to rescind the contract. The second defense is if the dealer has promptly paid off the lienholder of the vehicle but the lienholder has failed to issue a release of lien within 10 days of the payoff. This is known as the "lienholder excuse" and is the only occasion when a dealer may issue a blue supplemental tag to a consumer when the red tag expires.

If the lienholder has failed to issue a release of the lien to the dealer after payoff, the dealer should notify the enforcement section of MVD of such non-compliance so the dealer will not be held responsible.

It is not a defense to this violation that the title is held by a prior owner or the title is lost. If a dealer has sold a vehicle without ascertaining where the title is, then he is responsible for purchasing the 30-day permit for the consumer until the dealer can locate and transfer the title. In addition, it is not a defense that the buyer has not come up with the tax, title and license fees. This should have been covered in the down payment before the vehicle was released to the consumer. Further, lack of insurance on the part of the buyer is no longer an excuse since dealers are no longer required to provide proof of financial responsibility of the buyer.

n. Giving the title work to the consumer. Since January 1996, dealers are required to apply for the title and registration and not give the paperwork to consumers. The Tax Assessor-Collector offices have been very cooperative in turning in paperwork to MVD that has been filed by the consumer who bought a vehicle from a dealer. If a consumer is taking the vehicle out of state immediately, then a dealer should have the consumer fill out the Comptroller's Sales Tax Exemption Certificate for vehicles taken out of state. This form is kept in the dealer's sales file in case of an audit.

o. Failing to Notify MVD of Change of Address. As stated prior, any change in the licensed entity, ownership, physical or mailing address must be reported within 10 days of the change.

p. Incomplete or No Records. Rules require records to be kept for at least 24 months. The current and immediately preceding 12 months must be available for inspection at the dealer's location. Records from the prior 11 months may be kept either on the licensed site or off-site within the same county. Failing to keep records at all or incomplete records is a serious violation.

q. Not responding to request for records. Not keeping records is a serious violation, but not producing those records when a representative appears at a dealership is even more serious. Most information is requested by the MVD through certified mail. If a dealer fails to respond to this mail request, it is a violation and the agency representative may travel to the dealership to inspect not only the requested information, but the general state of records overall.

r. Forgery or Fraud. This encompasses rollbacks, title frauds and fraudulent sales of reconditioned vehicles. Also in this category are credit fraud or commercial fraud, floorplanner fraud and consignment fraud, which usually go hand in hand with these activities. In all of these instances, the perpetrator has made representations that have induced someone to buy a vehicle that he or she would not have purchased but for the fraudulent representations.

s. Spot Deliveries. This fraudulent practice consists of selling and delivering a consumer a car after signing a Retail Installment Contract and then calling the consumer back into the dealership to sign a new contract with higher interest, higher payments or to put more money down. This practice happens a lot when a dealer wants to tie the consumer to a sale but is unable to verify credit in a timely manner.

If a dealer wishes to employ this practice, there are special contracts such as a bailment contract, also known as a conditional sale and delivery agreement, which should be entered into instead of a Retail Installment Contract. These contracts make it clear to the consumer that the deal is not final.

The Office of the Consumer Credit Commissioner has approved a form that contains three elements:

1. The buyer also has an option to cancel the sales contract before credit is approved;
2. The buyer can cancel with full refund and return of trade-in if financing is not approved in accordance with the terms described in the purchase order;
3. The buyer's liability in case of cancellation is limited to rental, excessive mileage and use, which are items set out in the contract.

t. Dehorsing. Dehorsing is done in conjunction with a spot delivery. When the consumer refuses to sign a new contract and demands back their trade-in, the consumer is told their trade-in has already been sold, thus forcing him or her into the new contract or a vehicle of lesser value.

u. Parking on the Right-of-Way. Dealers are specifically prohibited from parking or displaying vehicles on the right-of-way adjacent to their dealership premises unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents to such use in writing. Use of right-of-way property that is part of the state highway system may only be authorized by a lease agreement entered into with the Texas Department of Transportation. This permission is given very seldom due to the nature of the safety hazard involved in allowing cars to obstruct the view of oncoming traffic. If a dealer wishes to inquire as to written permission, the dealer should call the local TxDOT office.

v. Failing to Pay Civil Penalties. One sure way to lose a license permanently is to refuse or neglect to pay any civil penalties assessed against a licensee by the department.

10.3 Odometer Rollbacks. Dealers are strictly prohibited from fraudulently tampering with an odometer to reduce the number of miles indicated on the instrument. This is a federal and state law with serious criminal penalties. Besides the criminal penalties, a person could be permanently denied a dealer license upon such a conviction. Dealers should exercise extreme caution when purchasing used cars with low mileage and inspect them for signs of odometer tampering. For the purposes of this law, odometer means an instrument for measuring and recording the distance a motor vehicle travels while in operation. This does not include an auxiliary odometer designed to be reset by the operator to record mileage on trips.

Pursuant to Transportation Code §727.002, a person who commits such an offense is subject to:

- Confinement in the county jail for not more than two years;
- A fine not to exceed \$1,000; or
- Both the confinement and fine.

If a person is found *more than once* to be guilty of odometer tampering, he or she is subject to punishment by:

- Confinement in the county jail for not less than 30 days or more than two years;
- A fine not to exceed \$2,000.

Under the federal statute, some individuals found guilty of numerous practices of odometer tampering or related fraud have been sentenced to up to nine years in prison and fined more than \$400,000.

10.4 Unlicensed Sales. No person, unless exempted by the Occ. Code as noted in Section 3.3 of this manual, may sell or offer to sell motor vehicles without having a GDN and/or franchised dealer license for the purposes of engaging in the business of buying, selling or exchanging motor vehicles, including purchasing wholesale vehicles or participating in auto auctions.

Franchised dealers may be sanctioned for offering to sell or selling or transferring new motor vehicles for which they are not franchised.

10.5 Selling to Foreign Dealers or Residents. On January 17, 2002, the Texas Motor Vehicle Board passed a rule designed to give the MVD one more tool to reduce curbstoning. The rule is known as the Foreign Dealer Rule and is directed at those foreign dealers who buy vehicles here in Texas on the pretext of exporting to Mexico and other countries, but instead illegally sell the vehicles on this side of the border in unfair competition with Texas dealers. Many of those Texas dealers along with a group of Tax Assessor-Collectors along the border proposed the procedure to the MVD staff that then wrote the rule and presented it to the Texas Motor Vehicle Board. While the rule was aimed at the illegal Mexican dealer, the rule was worded to apply to sales to any person claiming to buy vehicles for exporting. This rule became effective March 7, 2002.

The rule requires auctions and dealers to do two things, first of all, verify the identity of the buyer then stamp the title with the words "For Export Only" and the selling dealer's or auto auction's General Distinguishing Number. See Section 4.22 for more information and page 4-25 for an illustration of where to stamp the "for Export Only" stamp.

10.6 Violating Any Law relating to a Motor Vehicle Sale. Under Texas Occupations Code, any person who violates any law relating to the sale, distribution, financing or insuring of motor vehicles is subject to civil penalties, or probation, denial, suspension or revocation of their license and GDN by the Department.

10.7 Brokering. Texas law prohibits the brokering of motor vehicles among persons who are not licensed motor vehicle dealers. The definition of a broker is a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale of a new motor vehicle. Arranging or offering to arrange a transaction has been defined to include soliciting or referring buyers for new motor

vehicles. Therefore, the "transaction" of referring a customer to a dealer for a fee, is considered brokering. See 43 TAC 8.84 and 8.85 for the full text of the broker rules.

a. New motor vehicles. The only persons allowed to broker new motor vehicles are franchised dealers or bona fide employees of a franchised dealer when acting on behalf of the franchised dealer. Representatives and distributors and their bona fide employees are likewise exempted from the brokering prohibition. Consequently, a used vehicle dealer may not accept a fee from a franchised dealer for referral of a new motor vehicle customer.

b. Used motor vehicles. The brokering of used motor vehicles is allowed by those licensees possessing a valid GDN, which would include all licensed franchised and independent dealers.

c. Referral companies. The broker rules also set out how a referral company can operate without violating the broker rules. In summary, the company may operate legally if they:

- Do not offer exclusive market areas;
- Allow all dealers to participate on equal terms with no restrictions as to size, location or line-make;
- Charge all participants the same fee that is not based on a per referral basis or other transaction-related fee;
- Do not set or suggest to the dealer any price of vehicles or trade-ins;
- Do not advertise or promote their plan in the manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

d. Bird-dog fees. Referral fees are also known as bird-dog fees and are considered to be broker fees.

10.8 Internet Sales. With the growth of the Internet, many dealers are finding this is a great source of sales leads. MVD encourages dealers to initiate their own web site to make themselves accessible to the public. When advertising on the Internet, a licensee should be mindful that the agency considers the Internet as another form of media and all advertising rules apply. Also, a dealer should be especially careful not to misrepresent themselves or their inventory to avoid any deceptive or fraudulent sales practices. This includes advertising that suggests the consumer is buying the vehicles from someone other than the license holder. Dealers are also reminded that the law requires dealers who advertise a vehicle to have not only the vehicle, but also the title to the vehicle in their possession when the advertisement appears no matter what the media.

CHAPTER 11.

LEMON LAW REQUIREMENTS

11.1 Lemon Law or Warranty Performance Obligations. The Texas Lemon Law only applies to new vehicles purchased from Texas franchised dealers or leased from licensed lessors. Vehicles bought new in other states and brought to Texas are not eligible for this relief. Towable recreational vehicles must be titled and registered in this state. There is no lemon law relief for used vehicles, purchased with no balance of a manufacturer's warranty. A consumer may apply under the Lemon Law to have a vehicle repaired, repurchased or replaced by the manufacturer. Details on the process may be found in the copy of the brochure reprinted on Page 11-2 and 11-3.

11.2 Notice at Time of Sale. When a franchised dealer sells a new vehicle, Texas law requires that the dealer provide notice of the lemon law complaint procedures to the consumer. This requirement is not satisfied by pointing out the lemon law provisions in the manufacturers' owners manual. The proper notice to furnish the buyer must be approved by the Consumer Affairs Section of the MVD. Consumer Affairs has provided two different approved notices that the dealer is required to give the consumer at the time of sale. Both of those notices may be found on Page 11-4 and Page 11-6 herein.

11.3 Dealer Must Post Notices. In addition to handing the consumer one of the two notices mentioned in 11.1 above, all franchise dealers are required to post the lemon law notice in a conspicuous place in the cashier area of the service department. A copy of that notice is shown on page 11-6. Copies of this notice and the two mentioned above should be on yellow paper and are available from the Consumer Affairs Section of the MVD or may be downloaded from the TxDOT web site and printed on yellow paper.

11.4 Reselling Lemons. When a dealer buys a vehicle, usually through an auction, that was a manufacturer buy-back, there is a lemon law reacquired vehicle label hanging from the rear view mirror (or, if no rear view mirror, affixed in a conspicuous location) that must stay on the vehicle until after the retail sale. Also, there is a disclosure statement issued by the manufacturer stating the vehicle was repurchased or replaced by the manufacturer under the Texas law. This disclosure statement must remain with the vehicle through the first retail purchase. Manufacturers are required to restore the cause of the repurchase or replacement to factory specifications and issue a new 12-month, 12,000-mile warranty on the vehicle. Removal of the hanging label before the retail sale or failure to return the disclosure statement to the MVD after the retail sale, are violations for which the dealer would be responsible. The disclosure statement must be on a form approved by MVD, or on the form provided by MVD. These disclosure requirements apply also to vehicles transferred to Texas for resale that were reacquired by a manufacturer in another state to settle a warranty claim.

TEXAS LEMON LAW NOTICE to New Motor Vehicle Buyers & Lessees*

TEXAS DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION
1-800-622-8682

<http://www.txdot.gov>

Email: lemonlaw@dot.state.tx.us

March 2000

*Required by Occupations Code Chapter 2301.601 et seq & 43 TAC §8.202

HOW DOES THE LEMON LAW WORK?

The Texas “Lemon Law”* is a state law administered by the Texas Department of Transportation (TxDOT) that helps consumers who buy or lease **new**** motor vehicles from Texas dealers or lease companies and have repeated problems getting their vehicles properly repaired. The Lemon Law can help a consumer get the vehicle repurchased, replaced or repaired. It can be less complicated and less expensive than going to court.

WHAT DOES IT COVER?

New vehicles, including cars, trucks, vans, motorcycles, all-terrain vehicles, motor homes and Towable Recreational Vehicles (TRVs) that develop problems covered by a **manufacturer’s written warranty**. Demonstrator vehicles are considered new vehicles.

* Occupations Code Chapter 2301.601 et seq

**The relief available to used motor vehicle buyers is limited to repairs only, if the vehicle is still under the original manufacturer’s warranty. TRV’s must be titled and registered in Texas.

HOW DO I KNOW IF I OWN OR LEASE A LEMON?

The vehicle must meet the following conditions:

1. It has a serious defect or abnormal condition.
2. The defect or condition is covered by a manufacturer’s written warranty.
3. The owner reports the defect or condition to the dealer or manufacturer within the warranty term.
4. The owner gives the dealer a reasonable number of attempts to repair the defect or condition.
5. The owner gives the manufacturer (preferably by certified mail) written notice of the defect and at least one opportunity for repair.
6. The defect or condition persists and substantially impairs the vehicle’s use or market value, or creates a serious safety hazard.
7. The owner files a timely Lemon Law complaint and pays the filing fee.

HOW LONG DO I HAVE TO FILE A LEMON LAW COMPLAINT?

A Lemon Law complaint **must** be filed within six months following the **earlier** of:

1. **expiration** of the express warranty term;

2. **24 months** after purchase; or
3. **24,000 miles** following the date of delivery of the vehicle (except TRVs).

In other words, the filing period is determined by which of the above events comes first. To be safe, the complaint should be filed as soon as the consumer realizes the dealer is having problems repairing the vehicle.

WHAT SHOULD A LEMON OWNER DO?

Send written notice, by certified mail, to the manufacturer, offering an opportunity to repair the vehicle.

1. Obtain a repair order from the dealer each time the vehicle is taken in for repairs, even if the problem can't be diagnosed or fixed.
2. Ask TxDOT's Motor Vehicle Board (MVB) for a copy of the Lemon Law handbook (including complaint form and warranty repair log) or visit the website to view the handbook and to download the forms. The current Lemon Law Annual Report is also available for review on the website.
3. Begin gathering documents (buyer's order, repair orders, warranty booklet, etc.).
4. File a written complaint with the MVB and pay the \$35.00 filing fee.

WHAT ELSE SHOULD I KNOW?

If the vehicle is not repaired, TxDOT may send a technical expert to meet with the consumer and the manufacturer to help settle the dispute. If the complaint is still not settled, the matter will be referred to the State Office of Administrative Hearings (SOAH) for a hearing. At the hearing, the consumer will have to prove to the administrative law judge that the vehicle is a lemon. TxDOT's goal is to issue a final order within 150 days after the complaint is filed and the filing fee is paid. If the final order is in favor of the consumer, the manufacturer will be required to repurchase or replace the vehicle, less a reasonable allowance for use (RAFU), plus specified incidental expenses. (See the handbook for an explanation of the RAFU calculation and incidental expenses).

To obtain a Lemon Law Complaint Form and handbook visit our website:

<http://www.dot.state.tx.us>

or call:

1-800-622-8682

or write to:

TxDOT Motor Vehicle Division

P. O. Box 2293

Austin, TX 78768-2293

WHO CAN I CALL FOR HELP?

TxDOT's Motor Vehicle Division, Consumer Affairs Section, for Lemon Law information, at:
1-800-622-8682

TxDOT's Motor Vehicle Division, Enforcement Section, to file a non-Lemon Law complaint (fraud, ad violation, brokering, odometer rollback, etc.) against a dealer or manufacturer at:
1-800-687-7846 (Statewide)

TEXAS LEMON LAW
NOTICE TO NEW MOTOR VEHICLE OWNERS & LESSEES

The Texas Legislature enacted the “lemon law” (Occupations Code Chapter 2301.601 et seq.) to aid owners and lessees of new motor vehicles (including towable recreational vehicles) regarding a manufacturer’s, distributor’s or converter’s warranty obligations. Under the law, vehicle manufacturers, converters, and distributors are required to repair any defects that are covered by warranty. If the defects cannot be repaired, an owner or lessee may be entitled to a repurchase of the vehicle or a replacement vehicle if the following conditions are met:

If a new motor vehicle

1. develops a defect or abnormal condition, which is covered by a manufacturer’s, distributor’s or converter’s written warranty;
2. the owner or lessee reports the defect or condition within the warranty term, and
3. the owner or lessee gives the dealer, manufacturer, distributor or converter a **“REASONABLE NUMBER OF ATTEMPTS”** to repair the defect or condition; the number of repair attempts required depends on the nature of the defect, and
4. the owner or lessee gives the manufacturer, distributor or converter written notice of the defect and at least one opportunity to repair it, and
5. the defect or condition continues and it substantially impairs the vehicle’s use or value or creates a serious safety hazard; and
6. a written complaint with filing fee of \$35.00 is filed with the Texas Department of Transportation, Motor Vehicle Division **NOT LATER THAN SIX MONTHS AFTER** the earliest of: (i) the expiration of the warranty term; or (ii) 24 months after the delivery date of the vehicle; or (iii) 24,000 miles after the delivery date of the vehicle. (In general, mileage limitations do not apply to towable recreational vehicles).

To file a complaint or obtain additional information, call or write to:

Texas Department of Transportation
Motor Vehicle Division
P. O. Box 2293
Austin, Texas 78768-2293
512.416.4800
1.800.622.8682

(Front Page of Notice)

Updated 5/6/02

NOTICE TO
NEW MOTOR VEHICLE OWNERS & LESSEES

If you are unable to obtain the repair or correction of any defect in your new motor vehicle (including a towable recreational vehicle) which is covered by the vehicle warranty, the Texas Department of Transportation, Motor Vehicle Division may be able to assist you.

Occupations Code Chapter 2301.204, et seq., provides as follows: “The owner of a motor vehicle or the owner’s designated agent may make a complaint concerning defects in a motor vehicle which are covered by the manufacturer’s, converter’s or distributor’s warranty agreement applicable to the vehicle. Any such complaint must be made in writing to the applicable dealer, manufacturer, converter, or distributor and must specify the defects in the vehicle which are covered by the warranty. The owner may also invoke the Division’s jurisdiction by sending the Division a copy of the complaint. A hearing may be scheduled on all complaints arising under this subsection which are not privately resolved between the owner and the dealer, manufacturer, converter, or distributor.”

Complaints involving new motor vehicle warranty repair problems should be in writing, stating the details of the complaint and sent to:

Texas Department of Transportation
Motor Vehicle Division
Consumer Affairs Section
Post Office Box 2293
Austin, Texas 78768-2293

Updated 5/6/02

(Back Page of Notice)

TEXAS "LEMON LAW"

TEXAS DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION, CONSUMER AFFAIRS SECTION
P.O. BOX 2293, AUSTIN, TEXAS 78768

NOTICE TO NEW MOTOR VEHICLE OWNERS **TEXAS "LEMON LAW", Occupations Code Chapter 2301.601**

The Texas "LEMON LAW" provides simple and inexpensive help for consumers who purchase or lease defective new vehicles, including towable recreational vehicles (TRVs), from Texas dealers or lease companies. Owners or lessees having repeated warranty repairs on their vehicles may file a complaint with the Motor Vehicle Division if the vehicle is less than 30 months old and is within certain time and mileage limits. To qualify for relief, the vehicle must be presented for repairs, in most cases, at least 2 times during the first 12 months or 12,000 miles after delivery and 2 more times during the next 12 months or 12,000 miles, whichever occurs first. In general, mileage limitations do not apply to TRVs. If the defects cannot be corrected, owners or lessees of "LEMONS" are entitled to have their vehicles repurchased or replaced by the manufacturer.

In general, a "LEMON" is a vehicle that continues to have uncorrected defects after having been subject to repair a reasonable number of times, and the defects seriously affect the use, value, or safety of the vehicle.

Complaints under the lemon law must be filed with the Motor Vehicle Division within certain time limits. A filing fee is required, but will be reimbursed if the vehicle is found to be a "LEMON".

Because the filing deadline and other requirements of the "Lemon Law" are very specific, call the Motor Vehicle Division for more information or for assistance concerning warranty repair problems at **(512) 416-4800** or **1-800-622-8682** or visit our website at

http://www.txdot.gov/drivers_vehicles/consumer_protection/texas_lemon_law/default.htm

(Occupations Code Chapter 2301.613 requires this notice to be conspicuously posted in the cashier area of the franchised dealer's service department.)

Updated 03/29/2000

(NOTICE FOR CASHIER'S AREA)

CHAPTER 12.

THE ADMINISTRATIVE COMPLAINT PROCESS

12.1 Investigation of Complaints Received. The MVD Enforcement Section must receive a formal written complaint before an investigation can begin on the matter. Verbal complaints will not be acted upon. Every written complaint received by MVD is set up as a separate investigative file. Not all investigations become formal dockets and a docket may include more than one investigative file or complaint. Every file opened is subject to review by investigators, chief investigators, attorneys and the Enforcement Director before that file can be closed.

While many files are opened, only approximately 20 percent of the written complaints received become formal legal petitions or dockets. An investigative file may be closed before a docket is filed for many reasons. These reasons include a lack of evidence, lack of resources or possibly mediation between the dealer and consumer by our staff. Many complaints received are closed because there is no violation of the law. Many complaints of minor and first time offenses will generate warning letters. All complaints received no matter how they are closed are kept for a period of time by the agency subject to open records requests.

12.2 Filing of Dockets. Though the formal legal petition is called a Petition and Notice of Hearing, the legal petition will be referred to as a docket in this book to distinguish it from the written complaint initially received by this office. When a person or entity is named in a docket, that entity becomes a respondent in a lawsuit. An enforcement attorney is assigned to every docket. Once a docket is filed, a Petition is sent to the entity named in the docket. The Petition states what violations the person has allegedly committed and asks for a fine or action against the licensee's license. Respondents may attempt to settle with the enforcement attorney assigned to the case or if the case can not be settled, the case will be set for a hearing in front of an Administrative Law Judge in Austin.

12.3 The Docket Process. The docket process for violations is as follows:

1. Complaint is received by Enforcement, investigated and filed as a docketed petition;
2. Enforcement attorney enters into negotiations with Respondent (the licensee) or the Respondent's attorney;
3. The docket is routed to the Director, who will issue either a settled, agreed order or dismissal order;

- Or -

4. If there is no agreement, the matter is set for hearing before the administrative law judge (ALJ);
5. A hearing will be held and the ALJ will write a Proposal for Decision (PFD) to the division director;
6. Director may hear oral arguments, and can either modify, accept or reject the PFD and issue the final order;
7. A party may wish to file a Motion for Rehearing (MFR) for the Director to consider. The motion is due within 20 days from date of receipt of order. The Director rules on the MFR within 45 days from date the motion was filed.
8. If the MFR is denied, respondents may file an appeal with the Travis County District Court, which must be filed within 30 days from denial of MFR. No appeal to the District Court may be made without filing a timely MFR.

12.4 What to Do when you get a Petition. If a licensee receives a letter or other correspondence from this agency, the worst thing the licensee can do is ignore the correspondence. The vast majority of dockets are not filed without an investigator first calling the licensee or at least attempting to contact the licensee in some manner. This initial contact should give the licensee the opportunity to address the petition without further action. Requests for records, formal dockets and other important papers are sent to the licensee's addresses by certified mail. Certified mail returned marked "refused" is considered proper notice to a Respondent. The first thing a licensee should do is call the attorney named in the letter to determine whether the case can be settled amicably.

The following are some of the typical questions respondents have regarding the hearing process. This FAQ sheet is also printed in the brochure "Rights of Respondents in Complaints filed by the Enforcement Section of the Motor Vehicle Division" distributed by MVD to all respondents when a petition is filed against them:

I just received a Petition and Notice of Hearing, what is this?

More than likely someone filed a complaint alleging you did something wrong. An investigation was completed and it was determined that a formal Petition should be filed against you. This is a formal administrative petition that we call a "docket." The Petition is a legal instrument, which states what violations you allegedly committed and asks for a civil penalty (fine) or action against your license. The docket number is at the top of the page and you should refer to this number whenever you contact the agency's office.

What do I do now?

The allegations against you have to be proven (you are "innocent" until proven "guilty"). You are not required under the law to do anything but if you do not respond, a hearing will be set and you will be sent another copy of the petition with a notice of the

hearing setting out the date, time and place of the hearing. However, it is recommended that if you desire to settle this case without coming to Austin to attend a hearing, that you call the attorney who signed the cover letter to the Petition and Notice of Hearing to discuss the case. At this time, the attorney can explain to you in more detail what the alleged violations are and how you can settle the case. The best practice is to always call the attorney first before showing up in Austin at a hearing.

Do I have to stop running my business?

You may continue to operate your dealership as usual and you can renew your license until the Director enters a final order. Of course, it is recommended that you stop any activity that is described as illegal in the petition.

Will I pay a fine?

If you have a reasonable excuse or explanation for the alleged violation, the attorney may offer to dismiss the case with no fine. However, if the assigned staff attorney cannot agree to dismiss the case, you should feel free to negotiate with the attorney for a lower fine if you have good cause.

How much are the fines?

The Enforcement Section has guidelines on fines which take into consideration the seriousness of the violation, the history of the licensee, the harm to the consumer, if any, and what the licensee has done, if possible, to correct the violation.

What if I don't want to settle and pay the fine?

You are not required to settle with the enforcement attorney. You have a right to appear at a hearing and present your case to the administrative law judge who has been assigned to your case. That judge will consider whether you committed the alleged violation and what, if any, civil penalty should be recommended for you to pay.

Are all the hearings in Austin?

All hearings are scheduled to be held in Austin at the State Office of Administrative Hearings. The address and telephone number are contained in the cover letter of the petition you received along with the date and time of your hearing. Occasionally large cases that involve many witnesses will be moved out of Austin.

Should I hire a lawyer?

While the administrative process is an informal one, the hearings are conducted under the Rules of Evidence and Rules of Procedure. Most of the respondents do not appear with an attorney but some do and the choice is up to you. However, if the violations are serious and the enforcement attorney has told you he is looking for a large civil penalty or possible revocation of your license, you are certainly encouraged to hire an attorney.

Can I find out more about the petition without settling before the hearing?

Yes, many times the enforcement attorney will voluntarily send you papers from the file for you to look at if you so desire. While the majority of cases are simple and do

not require it, you may request a pre-hearing conference. At that conference a judge will set the dates for the procedure called “discovery” where you may take depositions of the state’s witnesses or formally request copies of the state’s documents. The enforcement attorney has the same right. Some things you request may be exempt, but the judge will decide what can and cannot be discovered. At the pre-hearing conference a special date for your hearing is also set.

Can I change the hearing date?

If you call the enforcement attorney, he or she will more than likely agree to a first time continuance. If you cannot reach an agreement, or it is the second time you want to continue the case, you should call the docket clerk and let her explain to you how to file a Motion for Continuance. You should not wait until the last moment to request a continuance, if possible.

What exactly happens at a hearing?

As stated before, the hearings are informal though they do follow rules of evidence and procedure. If you do not have an attorney, the judge will allow you to ask questions as the hearing goes along. The enforcement attorney will present evidence first by calling witnesses and presenting documents to the judge. You will have a chance to object to the documents and question each witness. Then you will present your case. You should be sure and bring your witnesses and any documents you may have that will help explain or prove your case. Under the rules of evidence, you cannot give hearsay testimony. Roughly, that means telling what a person said when that person is not present to be questioned by the other side. This is why you need to bring the person to the hearing if that person’s testimony is important to your case. In addition, you should bring original documents, if you have them, and at least two copies of the documents, so you may give one to the judge and to the other party. No decision is made on that day.

So when do I get a decision?

After the hearing, the judge may or may not ask you and the enforcement attorney to prepare written closing arguments. The judge will review all the evidence and argument and write what is called a proposal for decision (PFD). This PFD is the judge’s recommendations as to whether or not the violation was committed; what fine, if any, should be paid by the respondent; and how the judge came to that conclusion. The PFD is not the final word on the case. If you or the enforcement attorney disagrees with the result recommended in the PFD, you may file exceptions to the PFD setting out why you believe the judge reached the wrong conclusion. The other party has an opportunity to reply to your exceptions. The PFD along with the exceptions and replies are presented to the Director of the Motor Vehicle Division. You may have an opportunity to make an oral presentation before the Director about your case. The Director will review the PFD, exceptions and replies. The PFD may be approved as it stands, or certain parts of the proposed order may be changed or the director may send the entire case back for a new hearing. If the PFD is agreed to, the Director usually signs a Final Order accepting the PFD and the order becomes final in 20 days.

Can I appeal the final order?

Yes, in the 20-day period after the final order is signed, you must file a Motion for Rehearing explaining why you should have another hearing. The Motion for Rehearing will be given to the Director to decide whether to grant you another hearing. If the Director disagrees with you and denies your motion, then you must comply with the order. That final order can be appealed to the District Court in Travis County, but it is highly recommended that you hire an attorney, if you haven't done so already, to take the appeal any further. You must file a MFR in order to appeal to the District Court. If you miss the 20-day deadline to file the MFR, you cannot appeal.

When do I pay the civil penalty?

If you have reached an agreement with the enforcement attorney before a hearing, the attorney will send you an Agreed Order. You should sign that order and send it back with your check as instructed in the cover letter. If you have gone through the hearing process, and a violation is found, you must pay the civil penalty when the final order is signed and becomes final. If you do not pay your civil penalty further enforcement action may be taken and you will not be allowed to renew your license.

What would happen if I just don't show up or answer my mail?

If you fail to call the attorney or docket clerk to request a continuance and do not show up on the hearing date, the hearing will be held without you. The enforcement attorney will present evidence and ask for a fine or possibly a revocation of license. If you do not show up at the hearing and you did not file a reply to the petition specifically admitting, denying, or otherwise explaining the allegations in the petition, all the allegations contained in the Petition and Notice of Hearing are found to be true. The judge will then submit a proposed Order of Default to the Director for consideration. If approved by the Director, you are held responsible to comply with what is in the Default Order, (for example, paying a fine) a copy of which will be mailed to your mailing and physical addresses. If you do not abide by the Default Order, you may lose not only your current license, but also possibly the right to renew the license or apply for a new one.

Can I just call and talk to the Judge?

You can not call the judge just to tell your side of the story. This is why hearings are held. Neither the respondent (you) nor the complainant (enforcement) may talk to the judge without the presence of the other person either in person or on a conference call. This is to prevent one side from telling its side of the story without the other person having an opportunity to respond. If you feel the enforcement attorney is being unfair or is treating you badly, you are encouraged to call either the attorney's supervisor or the docket clerk and ask for advice.

CHAPTER 13.

USEFUL WEB SITES

TEXAS DEPARTMENT OF TRANSPORTATION: www.txdot.gov

TxDOT's new website is very helpful and easy to navigate. For example, to find most dealer related categories, click "Business with TxDOT". Then scroll down the right-hand menu for "Motor Vehicle Dealers" on the right side.

The screenshot shows the Texas Department of Transportation website. At the top, there is a navigation bar with links for Home, Contact Us, Site Map, and Español. Below this is a search bar with the text "How Do I..." and a "Search TxDOT" button. The main header features a large image of a highway with the text "Test Drive Our New Project Tracker S". Below the header, there are three main sections: "Topical Resources", "Local Information", and "Quick Links".

Topical Resources:

- Business with TxDOT
- Careers
- Drivers & Vehicles
- News
- Projects
- Public Involvement
- Safety
- Travel
- TxDOT Library
- About Us
- Contact Us

Local Information:

A map of Texas is shown with a "Select a County..." dropdown menu below it.

Quick Links:

- Driver License
- Vehicle Registration
- Commission Information
- Hearings & Meetings
- Road Conditions
- Project Tracker
- e-Subscribe to
- TxTag
- Keep Texas Moving

Right-hand menu:

- Remarks from Amadeo Saenz on Innovative Connectivity in Texas
- Strategic Corridors: Innovative Connectivity in Texas
- 2030 Committee
- Projects
- Expenditures by County (DISCOS)
- Motor Carrier Safety Records
- TxDOT Forms

Annotations on the screenshot:

- A red box with the text "Click, then scroll down to Motor Vehicle Dealers." points to the "Business with TxDOT" link in the "Topical Resources" section.
- A red box with the text "To find VTR forms" points to the "Vehicle Registration" link in the "Quick Links" section.

VTR forms are found under "Drivers & Vehicles", then titling and registering vehicles. You can also find links to forms and other publications in the TxDOT Library. Take some time and peruse all the different links and content of the website.

OTHER USEFUL WEBSITES:

Office of the Consumer Credit Commissioner: www.occc.state.tx.us

State Comptroller: www.window.state.tx.us/

Tax Forms: www.window.state.tx.us/taxinfo/taxforms/14-forms.html.

Certified Appraisal Form: www.window.state.tx.us/taxinfo/taxforms/14-128.pdf

Secretary of State: www.sos.state.tx.us

Department of Public Safety: www.txdps.state.tx.us

Texas Auto Theft Prevention Authority: www.txwatchyourcar.com

Texas Attorney General: www.oag.state.tx.us.

Texas Department of Licensing and Regulation: www.license.state.tx.us.

Texas County Tax Office Listings (on VTR site):

[www.dot.state.tx.us/services/vehicle titles and registration/county tax offices/default.htm](http://www.dot.state.tx.us/services/vehicle_titles_and_registration/county_tax_offices/default.htm).

Texas Legislature online: www.capitol.state.tx.us

OSHA: www.osha.gov.

Federal Trade Commission: www.ftc.gov

FTC Advertising Guidance: www.ftc.gov/bcp/guides/guides.htm

Office of Foreign Assets Control (OFAC – Patriot Act):

www.ustreas.gov/offices/enforcement/ofac

Terrorist Exclusion List: www.state.gov/s/ct/rls/fs/2004/32678.htm

Regulation M – Consumer Leasing:

http://www.access.gpo.gov/nara/cfr/waisidx_02/12cfr213_02.html

CHAPTER 14.

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