

# MOTOR VEHICLE DEALER MANUAL

2017 EDITION



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**ENFORCEMENT DIVISION OF**



**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

## INTRODUCTION

The purpose of this manual is to provide prospective and current motor vehicle industry licensees as well as other stakeholders with an easy-to-use overview of Texas motor vehicle dealer licensing and operating laws.

Our goal is that licensees comply with the laws regulating the industry. Our belief is that a better understanding of those laws will result in increased compliance and creation of a level playing field for those operating in the industry. To that end, our staff stands ready to assist with any questions you may have regarding department laws and rules.

Licensees are also encouraged to keep up with changes in the law through regular attendance of continuing education presentations made by the division and by the dealer associations. This manual will be updated on a regular basis to incorporate changes in the law. Input from users of the manual assists in the production of what is hoped to be a valuable tool for licensees and other stakeholders. Accordingly, comments or suggestions for improving the manual are always welcome.

Please understand that the department's statutes and rules are controlling, and should be consulted first in the event of an apparent conflict with information presented in this manual which is intended to be used as an educational tool.

December, 2017

Corrie Thompson  
Director, Enforcement 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:

**Antique Vehicle** – A motor vehicle that is 25 years of age or older. (Tex. Transp. Code § 504.502)

**Autocycle** - A motor vehicle, other than a tractor, that is:

- (1) designed to have when propelled not more than three wheels on the ground;
- (2) equipped with a steering wheel;
- (3) equipped with seating that does not require the operator to straddle or sit astride the seat; and manufactured and certified to comply with federal safety requirements for a motorcycle.

An autocycle is considered a motorcycle for purposes of issuing a title. (Tex. Trans. Code § 501.008)

**Blue Law** – The law that prohibits motor vehicle dealers from selling or offering for sale motor vehicles on consecutive days of Saturday and Sunday. (Tex. Transp. Code § 728.002)

**Broker** – 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 who is not a licensed dealer or bona fide employee of a licensed dealer; a licensed representative or bona fide employee of a representative; a distributor or bona fide employee of a distributor, or the owner of the vehicle at any point of the transaction. (Tex. Occ. Code § 2301.002(3))

**Buyer's Guide** - Also known as the “As Is” sticker that is required by the Federal Trade Commission to be placed on all used light duty trucks, vans and automobiles offered for sale.

**Converter** – A person who assembles, installs or affixes a body, cab or special equipment to a chassis prior to the retail sale of a vehicle, 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. (Tex. Occ. Code § 2301.001(6))

**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 persons commonly use vacant store parking lots and other curbsides to place vehicles for sale. Licensed dealers are also known to try to sell their less than desirable inventory away from their licensed premises by way of curbstoning. (Tex. Transp. Code §§ 503.021 and 503.027; Tex Occ. Code § 2301.362)

**Consumer** – May also be referred to in this manual as a “customer”. For the purposes of this manual, the term generally refers to the person who leases or buys a vehicle through a retail sale.

**Dealer** – A person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location. Includes a franchised motor vehicle dealer, an independent motor vehicle dealer, an independent mobility motor vehicle dealer, and a wholesale motor vehicle dealer. (Tex. Transp. Code § 503.001(4))

**Department** – the Texas Department of Motor Vehicles. (Tex. Transp. Code § 503.001)

**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."

**DMV a/k/a TxDMV** – See the Texas Department of Motor Vehicles.

**eLICENSING** – An online self-service hub for all motor vehicle licensees and salvage dealers operating in Texas.

**Enforcement Division** – The division within TxDMV that regulates the activities of the motor vehicle industry, salvage vehicle dealers, motor carriers, and household goods movers. The administration of the Lemon Law Program is also handled within this division.

**Franchised Dealer** - A person who holds a board-issued franchised motor vehicle dealer’s license, and is engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer’s warranty at an established and permanent place of business under a current franchise agreement with a manufacturer or distributor. (Tex. Occ. Code § 2301.002(16))

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

**Independent Dealer** - A dealer other than a franchised dealer, an independent mobility motor vehicle dealer, or a wholesale dealer who holds an independent motor vehicle dealer's general distinguishing number, allowing the sale of used motor vehicles. (Tex. Transp. Code § 503.001(9))

**Lemon Law** – Texas Occupations Code, Chapter 2301, Subchapter M, imposes a duty on manufacturers to perform warranty obligations on new motor vehicles. The Lemon Law provides relief for consumers by way of department ordered repairs, replacement, or repurchase of vehicles impaired by substantial defects.

**Line-make** - Refers to the various nameplates or "badges" under which vehicles are marketed, such as, "Buick" or "Nissan."

**Monroney Sticker** - Also known as the Monroney Label or MSRP sticker that manufacturers attach to the window of new motor vehicles describing the vehicle and its specifications.

**MCO (Manufacturer's Certificate of Origin)** – The birth certificate for a motor vehicle. Manufacturers issue the MCOs to their franchised dealers for vehicles purchased 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)** - 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.

**Motor Vehicle Collector** – A person who owns one or more antique or special interest vehicles; and acquires, collects, or disposes of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

**Motor Vehicle Division (MVD)** – A division within the TxDMV responsible for licensing the salvage industry, motor vehicle manufacturers, distributors, representatives, in-transit operators, new and used motor vehicle dealers, converters, lease facilitators, and vehicle lessors doing business in Texas. This division also issues metal plates to dealers and authorized license types, offers mediation service for new motor vehicle dealers and manufacturers and distributors, and regulates participation in shows and exhibitions taking place throughout the state.

**MSO (Manufacturer's Statement of Origin)** – See "MCO." This is another name for a MCO.

**New Motor Vehicle** - A new motor vehicle is one that has not been subject to a prior retail sale, 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. (Tex. Occ. Code § 2301.002)

**Non-franchised Dealer** - See Independent dealer.

**Occupations Code** - As of June 1, 2003, the Texas Motor Vehicle Commission Code was codified under Chapter 2301 of the Occupations Code.

**OEM** – Original Equipment Manufacturer.

**Person** – A natural person, partnership, corporation, association, trust, estate or any other legal entity as defined by Chapter 2301 of the Occupations Code. (Tex. Occ. Code § 2301.002(27))

**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 as well as the documents the evidence presented and recommends an outcome. The PFD is presented to the Board or the Board's delegate for consideration and issuance of a final decision of the TxDMV.

**Public Auctions** – An auction conducted by a licensed auctioneer that allows a licensed dealer to sell its own inventory by on the dealer's licensed premises.

**SOAH** (State Office of Administrative Hearings) - The agency that provides Administrative Law Judges who hear the non-Lemon Law cases referred by the TxDMV Enforcement Division and then renders Proposals for Decisions.

**Special Interest Vehicle** – A motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist (motor vehicle collector). (Tex. Transp. Code § 683.077(b)(3)) Collectors of special interest vehicles do not need a dealer license if the vehicles are at least 12 years of age.

**SPV** (Standard Presumptive Value) - The calculated value of a motor vehicle that is used to calculate motor vehicle tax on private-party purchases of used motor vehicles. A private purchaser make ask a Dealer to provide a certified appraisal to prove a value lower than the SPV.

**TAC (Tax Assessor-Collector)** - The county tax office that is responsible for accepting and issuing receipts for title transfers.

**Texas Motor Vehicle Commission** – The original agency that regulated franchised dealers and manufacturers. When the agency was folded into the Texas Department of Transportation in 1991, the Commission became the **Texas Motor Vehicle Board**. On June 14, 2005, The Texas Motor Vehicle Board was dissolved by law. All functions of the Board were transferred to the MVD Division Director except the rulemaking authority, which was vested in the Texas Transportation Commission. This changed when the Texas Department of Motor Vehicles was created in 2009 and the new Texas Department of Motor Vehicles Board was established.

**Texas Department of Motor Vehicles (TxDMV)** - The agency was created by the 81<sup>st</sup> legislature in 2009. It is composed of numerous divisions including: Motor Vehicle Division, Enforcement Division, Motor Carrier Division, Vehicle Titles and Registration Division, and the Automobile Burglary and Theft Prevention Division. The agency is governed by a nine-member board appointed by the Governor.

**Texas Department of Motor Vehicles Board** – Composed of nine members each of whom serve six staggered year terms. This board sets policy for the department and is the final arbiter of cases brought before the agency.

**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 the dealer is required to apply for a certificate of title for 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)** – A TxDMV division responsible for issuing and maintaining records of titles and registration. Providing license plates and specialty plates for vehicle registration is also a function of this division.

**Wholesale Dealer** - A person who holds a GDN issued by the TxDMV, but is not permitted to sell to retail customers.

**Wholesale Motor Vehicle Auction** – An entity that offers motor vehicles for sale to the highest bidder during a transaction that is one of a series of regular periodic transactions that occur at a permanent licensed location. A wholesale motor vehicle auction is open only to licensed dealers.

## CHAPTER 2.

### ENFORCEMENT AND MOTOR VEHICLE DIVISIONS

**2.1 History.** In 1991, the Motor Vehicle Commission was a state agency that licensed and regulated franchised dealers. That same year, the commission was merged into the Texas Department of Transportation (TxDOT and became the Motor Vehicle Division (MVD. At that time, the Texas Motor Vehicle Commission became the Texas Motor Vehicle Board, which was made up of nine members appointed by the Governor. In the 2005 legislative session, the Texas Motor Vehicle Board was dissolved and all functions of the board were placed with the Director of the MVD, with the exception of rulemaking, which resided with the Texas Transportation Commission.

In 2009, the 81st Legislature extracted the MVD along with three other TxDOT divisions to form the Texas Department of Motor Vehicles (TxDMV. The four divisions that became the new TxDMV were the Motor Vehicle Division, the Motor Carrier Division, the Vehicle Titles and Registration Division (VTR, and the Automobile Burglary and Theft Prevention Division (ABTPA. Other divisions established within the agency over time include: Administration and Financial Services, Office of Administrative Hearings, Civil Rights, Enterprise Project Management, Government and Strategic Communications, Consumer Relations, General Counsel, Internal Audit, Human Resources, Enforcement, and Information Technology.

The TxDMV is governed by a nine-member board appointed by the Governor. The board consists of three dealers, two of which must be of different types and one of which is an independent dealer; a tax-assessor collector; a member of a municipal or county law enforcement entity; a manufacturer or distributor representative; a motor carrier industry representative; and two public members. The board sets policy and is the final arbiter of most of the cases brought before the agency.

**2.2 The Enforcement Division.** The Enforcement Division consists of five sections under the direction of a single director who reports to the TxDMV Executive Director. The five sections are Administration, Investigations, Legal, Compliance Education, and Lemon Law.

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

**b. Investigations.** The Enforcement Section receives approximately 12,000 complaints per year from consumers, government agencies, public companies, and other licensees. Investigations are broken down into three distinct areas: motor vehicle; motor carrier/household goods carriers; and oversize/overweight investigations. Enforcement investigators make contact with licensees and complainants to collect information based

on complaints received by the Department. Investigators also assist law enforcement by training officers and agents on rules and regulations that apply to licensees.

**c. Legal.** Staff attorneys review investigations and, if needed, prosecute violations of Department rules.

**d. Compliance Education.** This section oversees the training efforts of the division. The Compliance Education section is also responsible for updating Enforcement Division website content and publications.

**e. Lemon Law.** This section administers the Texas Lemon Law and Warranty Compliance programs. Consumers who buy or lease a new motor vehicle and then experience ongoing repair issues may file an online complaint with this section seeking repurchase or replacement under the Lemon Law, or repair relief under statutory warranty compliance requirements. This section has trained motor vehicle technician case advisors who mediate Lemon Law related matters between consumers and factory representatives. Failing mediation, complaints are forwarded to the TxDMV Office of Administrative Hearings (OAH where a hearing examiner will hold a hearing in or near the consumer's locale to determine if the vehicle qualifies for Lemon Law or warranty compliance relief.

**2.3 The Motor Vehicle Division.** Motor Vehicle Division staff consists of three sections under the direction of a single director who reports to the TxDMV Executive Director. The three sections that comprise the MVD are Administration, Licensing and Legal.

**a. Administration.** This section oversees the processing and distribution of metal plates to dealers and other eligible license types, and reviews requests for participation in motor vehicle shows and exhibitions. The administration section also provides services and support to other sections through mail receipt and payment processing, application forms and website maintenance, responding to customer inquiries, project management, processing open records requests, docket maintenance, and general administrative support including purchasing, reporting and human resources.

**b. Licensing.** This section processes new, renewal, and amendment applications for motor vehicle manufacturer, distributor, representative, in-transit operator, salvage dealer, franchise dealer, used motor vehicle dealer, converter, lease facilitator, vehicle lessor, and salvage agent licenses. This section is charged with ensuring all new applicants meet the requirements for a license and that applicants for renewals are maintaining the requirements of the TxDMV rules and state law. The many different types of licenses have different requirements and the licensing personnel help applicants understand the distinctions and assist applicants with 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.

**c. Legal.** This section advises the Licensing and Administration sections by interpreting state and federal laws and TxDMV rules, and determines licensing requirements for new products and prospective motor vehicle industry businesses. This section also acts as a forum for dispute resolution by providing mediation services between new motor vehicle dealers and manufacturers and distributors.

## 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 who is otherwise engaging in business as a dealer, directly or indirectly, including by consignment, must apply for and receive a general distinguishing number (GDN) issued by the Department. This is commonly referred to as the "GDN." See Section 3.3 of this chapter for certain exemptions from licensure.

#### **3.2 Types of Licenses.**

**a. GDN Licenses for Retail Sales.** A GDN is the basic dealer license that allows a person to buy, sell, or exchange the type of *used* vehicle corresponding to the type of GDN issued. GDN licenses are broken down into several types. For example, if a dealer wants to sell both used motorcycles and used automobiles, that dealer must hold two licenses, a Motorcycle GDN and a Motor Vehicle GDN. A GDN license must be obtained in order to sell motor vehicles of that type. These GDN license types require a bond (except for franchise dealers, Travel Trailer GDN license type, and Utility Trailer/Semitrailer GDN license type; see 3.10) and allow the GDN holder to use dealer's temporary tags, buyer's temporary tags, and metal dealer's license plates on motor vehicle types they are licensed to sell. The different retail GDN license types are:

**1. Motor Vehicle:** This license type allows a dealer to purchase and sell used cars, light, medium, heavy trucks, motorhomes, neighborhood electric vehicles (NEVs), all-terrain vehicles (ATVs), and recreational off-road vehicles (ROVs). The license permits retail sales to the public and wholesale sales (for these vehicle types only) to other licensed dealers at a specified licensed location. License holders have a limit to the number of dealer plates that may be purchased.

**2. Motorcycle:** This license type allows a dealer to purchase and sell used motorcycles, motor scooters, ATVs, ROVs, and autocycles. The license permits retail sales to the public and wholesale sales (for these vehicle types only) to other licensed dealers at a specified licensed location. License holders have a limit to the number of dealer plates that may be purchased.

**3. Travel Trailer (Towable Recreational Vehicle):** This license type allows a dealer to purchase and sell used travel trailers at a specified licensed location. Travel trailers are designed to be towed by a vehicle for recreational, camping, or seasonal use. Travel trailers have a living quarters with at least one of the following: 1) a cooking facility with an on-board fuel source; 2) a refrigerator; 3) a toilet with exterior evacuation; 4) a heater or air conditioner; 5) a sink, faucet, and water tank with an exterior service supply connection; or 6) a 110-125 volt electric power

supply. The license permits retail sales to the public and wholesale travel trailer sales to other licensed dealers. There is a limit to the number of dealer plates that may be purchased.

**4. Trailer/Semitrailer:** This license type allows a dealer to purchase and sell **new or used** utility trailers and semitrailers at a specified licensed location. The license permits retail sales to the public and wholesale utility and semitrailer sales to other licensed dealers. This is the only GDN that permits the sale of new vehicles without a franchised dealer license. A utility trailer is a vehicle that can carry a load and is pulled behind a motor vehicle. A semitrailer is a vehicle in which its weight or load rests on or is carried by another vehicle. There is a limit to the number of dealer plates that may be purchased.

**5. Independent Mobility Motor Vehicle Dealer (IMMV):** This license type allows a non-franchised dealer to display, offer for sale, and sell **new** vehicles that have been converted into mobility motor vehicles at a specific location. Even though this license type allows a non-franchised dealer to sell new mobility vehicles, the dealer must have an agreement with a licensed franchised dealer of the underlying chassis of the mobility motor vehicle to submit the paperwork to the county tax office to transfer the title and apply for registration. This license type requires that the applicant also hold a converter's license.

A "mobility motor vehicle" is a motor vehicle designed and equipped to transport a person with a disability. The vehicle must contain a permanently lowered floor or lowered frame; or a permanently raised roof and raised door. The vehicle must also contain at least one of the following, which is installed as an integral part or permanent attachment to the motor vehicle's chassis:

1. A platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter;
2. A wheelchair ramp, electronic or mechanical;
3. A system to secure a wheelchair or scooter to allow a person to be safely transported while occupying the wheelchair or scooter.

**b. GDN Wholesale Only Dealer License (Wholesale GDN).** This license type allows a dealer to purchase and sell any type of used vehicles through wholesale sales to other licensed dealers of that GDN category only. Sales must take place at a specified licensed location. A dealer with a wholesale GDN license cannot sell any vehicles to the public. A wholesale dealer who wishes to sell vehicles to the public, may file an amendment application to change the GDN license type from wholesale to motor vehicle, motorcycle, travel trailer, or trailer/semitrailer retail license type. If there are other licensed wholesale dealers at the same location, the wholesale dealer will not be permitted to change to a retail license type without also moving to a new location.

**c. GDN Wholesale Motor Vehicle Auction License (Auction GDN).** This license type 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. The entity with the auction license may apply for and receive only one additional GDN license type 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, the dealer must obtain a franchised dealer license. A franchised dealer may operate several locations within a city limit with one GDN. However, each separate location (“showroom”) for new motor vehicles sales or warranty service requires a separate franchise license. If a dealer relocates a showroom within the same city limits, an application for a new franchised dealer license must be made for the new location. The dealer will be able to keep the same GDN in this instance. If a franchised dealer wishes to add a line-make to the current licensed location, the dealer must submit a license amendment form so the new line can be added to the franchise license. A franchised dealer may also file an amendment form to add an additional GDN license type at the same location as the franchise. (Example: A franchised dealer currently licensed to sell new Yamaha motorcycles and now wants to start selling used motor vehicles at the same location. The franchise dealer would submit a franchise amendment requesting to add a motor vehicle GDN license type. The motor vehicle GDN license will have the same license expiration date as the franchise license.)

The same rules apply to franchised dealers for their 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.

**e. Converter License.** This license is required for dealers who assemble, install or affix a body, cab or special equipment to a chassis prior to the retail sale of a new 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 chassis of the converted vehicle may sell the vehicle at retail. No license is required if the conversion is done after the first retail sale of the vehicle. Any conversions done after the first retail sale are considered aftermarket conversions. See Chapter 9 for more information on this license type.

**f. Manufacturer License.** A manufacturer license is required for anyone who manufactures or assembles new motor vehicles for sale within Texas 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. A manufacturer may use 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. If a manufacturer is located outside of the United States or will not be contacting Texas franchised dealers, they are exempt from licensing provided they have a distributor that is licensed in Texas for their products.

**g. Distributor License.** A distributor license is required for anyone who distributes and/or sells new motor vehicles to franchised dealers within this State and in lieu of a manufacturer.

**h. Representative License.** A representative license is required for a person who acts as an agent or employee for a manufacturer, distributor, or converter and who performs duties in Texas relating to promoting the distribution 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, but not sell, the product to the public. Sales to the public must be done through a licensed franchised dealer. If the owner of a manufacturer, distributor, or converter is performing the duties of a representative, he/she needs a representative license. If the licensed representative is a company, the owners of that company are exempt from holding a representative license, but employees that perform representative functions are required to hold a representative license.

**i. Vehicle Lessor License.** This license is required of a person who, under the terms of a lease agreement in excess of 180 days, leases or offers to lease a motor vehicle. A vehicle lessor is required to license their primary location, regardless of whether it is located outside of Texas, and add any additional locations as satellite offices to that license.

A dealer may not have the words "lease" or "leasing" in his or her company name unless the dealer obtains a vehicle lessor or a lease facilitator license.

*Exempt Vehicle Lessors:* A franchised dealer may lease the line-make of vehicles for which they have a franchise license without obtaining a vehicle lessor 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 vehicle lessor or lease facilitator license to lease vehicles. Any entity exempt from the licensing requirement must still observe the record-keeping requirements found in the Texas Administrative Code § 215.178 - Records of Leasing. For more information on the Lease Rules, see Chapter 8 on Leasing.

**j. Lease Facilitator License.** A lease facilitator acts as a leasing agent for a licensed vehicle lessor. A lease facilitator never has a leased vehicle titled in their name, rather the lease facilitator acts as an agent who procures a person to enter into a lease contract with the licensed vehicle lessor. A lease facilitator must have a distinct license for each location in Texas where he or she conducts business.

The vehicle lessor license includes the ability to facilitate its own leases with lessees. However, if a vehicle lessor facilitates leases between lessees and *other* vehicle lessors, a lease facilitator license is required in addition to the vehicle lessor license.

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

- Is selling or offering to sell fewer than five vehicles in the same calendar year, *provided the vehicles are owned and registered in that person's name.* If the vehicles are not owned and registered in that person's name, he or she would need a license to sell even one vehicle; or
- Is a federal, state, or local government agency selling a vehicle; or
- 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
- Is selling a vehicle that the seller holds a security interest in at a forced sale, in a manner provided by law; or
- Is acting under a court order as a receiver, trustee, administrator, executor, guardian or other appointed person; or
- Is an insurance company selling a vehicle acquired from the owner as a result of paying an insurance claim; or
- Is selling an antique passenger car or truck that is at least 25 years of age; or
- Is a collector selling a special interest vehicle that is at least 12 years old. 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 valid for two years from the date of issuance. If the license type requires a motor vehicle surety bond, the license will expire the same date the bond expires. Applicants must not commence business until the license becomes effective. License applications, renewals, and amendments must be filed online using the Department's eLICENSING system. *The licensee is responsible for notifying the TxDMV in writing within ten days of the opening, closing, or relocation of any dealership location. Failure to do so may result in an enforcement action for which administrative penalties and sanctions could be imposed.* It is also the licensee's responsibility to file a timely and sufficient renewal application in order to continue operations.

**3.5 License Application Submission.** TxDMV rules limit who may submit an application. Specifically, only a license applicant, license holder or an authorized

representative who is an employee, a licensed attorney, or a certified public account for the applicant or license holder may complete and submit an application for a new license, amendment or renewal.

The license holder, applicant, or his/her authorized representative, a designated attorney or CPA are the only persons to whom information about an application or a license holder's record will be provided. This includes follow-up information requests. New license numbers will not be released to anyone other than the new license holder or the new license holder's attorney or CPA.

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

- Franchised dealers must hold a franchise license in addition to the GDN.
- Franchised dealers must obtain a separate franchise license for each location where new motor vehicles are sold.
- Dealers who own dealerships in different cities are required to obtain separate licenses.
- Franchised or independent dealers who wish to sell different types of vehicles require a GDN for each type (i.e. a motorcycle dealer who wishes to sell trailers as well).

A separate bond is required for each type of GDN, with the exception of travel trailer and trailer/semitrailer GDN categories, or dealers who also hold an active franchise license. 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 of this chapter 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. Original Location.** A dealer only needs one GDN for each type of vehicle sold if all of a dealer's locations are situated within the same city limits,

**b. Additional Location.** A dealer may operate multiple locations within the same city limits. Any additional locations (of the same GDN type) are considered supplemental locations and do not require a separate GDN license. The same is true if all locations are outside the same city limits. A dealer may apply for multiple locations in the original

license application by including an attachment listing the additional locations. Each supplemental location must meet all premises requirements. The bond must list all physical addresses of locations (in the same city limits). If a dealer acquires an additional location that does not coincide with the same city as the original location, an additional, separate, GDN license and bond, if applicable, are required. Call the TxDMV Contact Center at (888) 368-4689 if you have any questions.

**c. Different Entities at Different Locations.** Some dealers operate different locations under different business 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 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 below.

**a. Office Structure for Retail and Wholesale Motor Vehicle Dealers.** A dealer that files an application for a new license or a supplemental location must:

1. Be located in a building, with connecting exterior walls on all sides.
2. Comply with all applicable local zoning ordinances and deed restrictions.
3. Not be located within a residence, apartment, hotel, motel, or rooming house.
4. Have a physical address 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.

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 Motor Vehicle Dealers.** At a minimum, the office must be equipped with: (1) a desk; (2) two chairs; (3) Internet access; and (4) a working telephone listed in the business name or assumed name under which the dealer conducts business.

**c. Number of Dealers in One Office.** A business structure may house up to four retail dealers or eight wholesale dealers. Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle dealer, either of which is licensed after September 1, 1999, may not be located in the same business structure. A business structure is defined as a building, with connecting exterior walls on all sides. A retail dealer may hold one or more of the following GDN license categories: motor vehicle,

motorcycle, travel trailer, trailer/semitrailer, and independent mobility motor vehicle. A wholesale motor vehicle dealer holds a GDN license category as wholesale only.

**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 the name of the other business, a separate telephone listing 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 with the owner of the property. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone number and 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 substantially similar to the dealer's license, under which the dealer conducts business. The sign must be permanently mounted at the address listed on the application for the dealer license. A dealer may use a temporary sign or banner if the dealer can show proof that a sign is on order that meets signage requirements.
2. **Business Sign Requirements for Wholesale Motor Vehicle Dealers.** A wholesale motor vehicle dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the wholesale dealer's business name or assumed name substantially similar to the license under which the dealer conducts business. The sign must be permanently mounted on the business property and must be on the main door to the wholesale dealer's office or on the outside of the building housing the office. If the wholesale 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. A temporary sign or banner may be used if the dealer can show proof that a sign meeting the signage requirements is on order.

**f. Display Area Requirements.** A wholesale motor vehicle dealer is not required to have display space at the wholesale motor vehicle dealer's business physical address. A retail dealer must have an area designated as display space that meets the following requirements:

1. Be located at the retail dealer's business physical address or contiguous with the retail dealer's physical address. A noncontiguous storage lot is permissible only if there is no public access and no sales activity occurs at the storage lot. A sign

stating the retail dealer's name, telephone number, and the fact the property is a storage lot is permissible.

2. Be sufficient to display at least five vehicles of the type that the dealer is licensed. The spaces must be used exclusively for the dealer's inventory and may not be shared or intermingled with another business or a public parking area, a driveway to the office, or another dealer's display area.
3. 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 retail dealer shares a display or parking area with another business, including another dealer, the dealer's motor vehicle inventory must be separated from the other business's display lot or parking area by a material object or barrier that cannot be readily removed.
5. The display area must be adequately illuminated if the retail dealer is open after sundown so that a vehicle for sale can be properly inspected by a potential buyer.
6. The display area may be located inside a building.
7. If a dealer also holds a salvage dealer license, each salvage motor 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 potential buyers that the vehicle is a salvage motor 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. The dealer may be asked by the Department to provide documentation proving the dealer owns the property or possesses a written lease agreement. The lease agreement must be on a properly executed form containing the minimum:

1. the name of the landlord as the vehicle lessor of the property (premise) and the name of the dealer as the tenant or lessee of the property;
2. the beginning date and ending date of the lease;
3. the street address of the property in the lease. If a legal description is used instead of a street address, the dealer needs to attach a statement that the property description in the lease agreement is the street address listed on the application; and

4. the signature of the landlord as the vehicle lessor and the signature of the dealer as the tenant or lessee.

#### **h. Business Hours.**

1. **Business Hours for Retail Dealers.** A retail dealer's office must be open at least four days per week, for at least four consecutive hours per day. The business hours must be posted at the main entrance and accessible to the public. 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 Motor Vehicle Dealers.** A wholesale dealer's office must be open at least two weekdays per week, for at least two consecutive hours per day. The business hours must be posted at the main entrance and accessible to the public. 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.** The dealer license must be displayed at each location in a conspicuous place, at all times, in a manner that makes the license easily readable by the public. If a dealer is issued a license for 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.** License applications must be completed online using the Department's eLICENSING system. The link for eLICENSING is: [https://texasdmv.force.com/customers/lace\\_login](https://texasdmv.force.com/customers/lace_login). Read the application questions carefully and upload all the required attachments. Application fees may be paid by e-Check or credit card. If you need assistance, call the TxDMV Contact Center toll-free at (888 368-4689).

**a. Military benefits.** Chapter 55 of the Texas Occupations Code, Licensing of Military Service Members, Military Veterans, and Military Spouses, includes a variety of benefits for the listed groups. However, specific benefits may differ among the groups. Such benefits may include priority license processing, waiver of certain application fees, and extended renewal deadlines. For more details, visit the TxDMV website, or call the TxDMV Contact Center toll-free at (888 368 4689).

**b. Choose One GDN Type per Application.** Select the GDN type that matches the type of used vehicle to be sold. A separate application is needed for each different GDN type. The retail GDN license (motor vehicle, motorcycle, travel trailer, trailer/semitrailer) allows for vehicle sales to the public and to other licensed dealers. A separate wholesale only GDN license type is not needed to sell to other licensed dealers. See Section 3.2 of this chapter for more on the GDN types.

**c. Complete all Sections & Upload all Required Attachments.** Review the application to make sure all sections are complete and all required documents are uploaded. Failure to provide a complete application and documents will delay license approval. Required documents may include:

1. **Assumed Name Certificate.** If the dealership is operating 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), the dealer must submit a copy of the Assumed Name Certificate. This form is available at the county clerk's office for sole proprietorships and general partnerships. Corporations or limited liability companies, such as L.L.P., need to secure the Assumed Name Certificate from the Secretary of State.
2. **Certificate of Incorporation, Limited Partnerships, etc.** If the entity applying for a license is a corporation or limited partnership, submit a copy of the certificate of formation from the Secretary of State.
3. **Motor Vehicle Surety Bond.** See Section 3.10 of this chapter for bond requirements. A bond may be claimed against if the bond holder fails to make payment of all valid bank drafts, including checks, to buy motor vehicles, and to transfer good title to each motor vehicle that is sold. Any attorney fees that are incurred in the recovery of the judgment may also be claimed. To file a claim on a bond, a person must file a judgement assessing damages and attorney fees on an act or omission on which the bond is covered by during the term for which the GDN license was valid. Any claims beyond \$25,000, the dealer will be responsible for paying.

**3.10 The Bond.** New applications often delayed because the bond is not issued with the proper name and address, or the term dates are incorrect. Read the bond requirements very carefully. A sample bond can be found under Documents at: <http://www.txdmv.gov/publications-dealers>.

**a. Who Needs a Bond, for What Term, and What Amount?** With the exception of franchised motor vehicle and motorcycle dealers, travel trailer dealers, and trailer/semitrailer dealers, all new GDN license applications 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.

**b. Name(s) on Bond and Contents.** The name(s) on the bond must match the exact name(s) of the applicant/business. Requirements of the bond are as follows:

1. The bond must be signed and dated by the owner/principal of the dealership and signed by an authorized agent for the bonding company.

2. The bond must be issued for two years, expire on the last day of a month, and run concurrently with 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. The bond must include a proper Power of Attorney from the bonding company.

5. The bond must contain the approved language. A sample bond is included in the instructions to 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 listed on the bond.

7. If information is listed incorrectly on the bond, the bond company may issue a “Rider” to correct the information. Each “Rider” must have a Power of Attorney issued with it.

8. If a rider is issued, the identity of the “obligee” on a rider may be listed as:  
a) a person who obtains a court judgment assessing damages and attorney’s fees for an act or omission on which the bond is conditioned; or  
b) unknown.

**3.11 Phone Listings.** The telephone number must be listed in the exact and complete name under which the dealer conducts business.

**3.12 Employer Identification Number.** Obtain an Employer Identification Number (EIN) from the Internal Revenue Service.

**3.13 Criminal History.** TxDMV must review the criminal history of an applicant, officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder, in order to determine eligibility for a license. The existence of

a criminal history does not automatically disqualify an applicant from licensure. The Ownership Information section in the eLICENSING application asks if any person named in the application, or any officer, director, partner, trustee, or other person acting in a representative capacity for the applicant or license holder has **ever**:

- been arrested for an offense that is currently pending;
- been convicted of a felony or misdemeanor offense;
- received a deferred adjudication for a felony or misdemeanor offense; or
- been convicted by a court martial, or is currently the subject of a pending court martial under the Uniform Code of Military Justice.

All questions must be answered truthfully. Submitting an application containing false, misleading, or incomplete information may be grounds for denial or license cancellation, revocation, or suspension. A person who knowingly makes a false statement in connection with applying for or renewing a license may be subject to criminal prosecution. Copies of court documents and complete details of **each** offense and charge must be submitted with the application.

**3.14 Sign the Application.** Double check that the application is complete and that all the required attachments have been uploaded. Then, e-Sign the application or upload a signed Certification of Responsibility. The applicant or its agent is certifying that statements made and attached documents submitted are true, complete and correct; the applicant agrees to permit the agency to examine the applicant's records during working hours; and the applicant is not delinquent in paying child support. If the applicant makes any misrepresentations on the application, the application could be denied, and the applicant or its agent may subject itself to civil penalties, denial of future applications, and/or criminal prosecution.

**3.15 Amending a Current License.** Any change in the assumed name, ownership, addition of a location, deletion of a location, relocation of the dealership, as well as any change in mailing address, contact information, business phone number, or email address must be reported to the agency. Failure to notify the agency of changes within ten (10) days after such change may result in a civil penalty, license revocation, or license suspension. **It is critical that the dealer comply with this requirement.** The agency must have the dealer's most current contact information in order to provide the dealer and potential customers with the most accurate information about the motor vehicle marketplace and to serve respondents with notice of enforcement actions. Dealers must submit license amendment applications online using the Department's eLICENSING system.

**a. Adding a Location.** A dealer may operate multiple locations within the same city limits. Additional locations of the same GDN type and within the same city limits are considered supplemental locations. These such supplemental locations can be added to a license by submitting an amendment application, amendment fee, and applicable documentation. The same is true if the original and additional locations are outside the

same city limits. If a dealer acquires an additional location that does not coincide with the same city boundaries as the original location, an additional, separate, GDN license, and bond, if applicable, are required. Call the TxDMV Contact Center at (888 368-4689 if you have any questions. **Note:** A franchised dealer must submit a new franchised dealer license application for each location (“showroom” at which new motor vehicle sale sales or warranty service will occur.

**b. Moving to a New Location, Deleting a Location, or Closing the Business.** If a dealership moves, closes a location, or closes business altogether, 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, the dealership must have its license, bond, and lease all in the same name. The rules require that a dealership notify the agency within ten (10 days of any change to the business name or ownership.

**d. Changing the Type of Entity of the Dealership.** If a sole proprietor incorporates or takes on a partner, a new application must be submitted. A new license is needed to reflect the entity name. Failure to submit a new application could result in a fine and suspension of the right to do business.

**e. Transfer or Assignment of License.** A dealer license 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 servicing or repairing motor vehicles pursuant to the terms of a franchise and a manufacturer’s warranty must obtain a franchised license for each location. In addition, each facility at which new motor vehicles are sold and displayed must have a GDN license. The franchise application has a section to select the GDN type(s).

**3.17 Service-Only Facilities.** Only franchised dealers may open a separate service-only facility to perform warranty work on the line-make the dealership is licensed to sell. Like a franchise license, the application may be subject to protest by other franchised dealers selling the same line-make(s). A GDN license is not required for a service-only facility unless used vehicles are also sold at that location.

**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 Tex. Admin. Code § 215.105 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 two miles 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. For relocations within or between counties with a population of one million or more or, a population of 500,000 or more (known as an affected county) that the proposed new location is more than 2 miles from the site from which the dealership is being relocated, all like-line dealers within a 15-mile radius around the proposed dealership location and the new location is moving closer are eligible to protest. If there are no like-line dealers within that 15-mile radius, the closest like-line dealer within the same county as the proposed dealership location is eligible to protest. Notification of these applications is provided to the existing dealer(s) by the Motor Vehicle Division (MVD). The protest period is 15 days from the mailing of notice of eligibility to protest. If each protest-eligible dealer submits a signed statement waiving their right to protest, the 15 day protest period may be shortened. Further information regarding the protest requirements is located in sections § 2301.652 and § 2301.6521 of the Texas Occupations Code, or by contacting the TxDMV's Motor Vehicle Division.

**3.19 Relocating a Franchised Dealership.** A franchised dealer may operate several locations within a city limit with one GDN. However, each separate and distinct showroom for new motor vehicles sales or warranty service requires a separate franchise license. If a dealer relocates a showroom within the same city limits, 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. (NOTE: The dealer will be able to keep the same GDN *only if* the move is within the same city limits. Call the TxDMV Contact Center at (888) 368-4689 if you have any questions.) An application for a new franchise license must be approved before a new location opens for business. If the new location is less than two miles, no dealers will be eligible to protest.

**3.20 Addition or Deletion of a Line.** Prior to selling a new line, whether as a new point or purchasing from an existing dealer, a franchise amendment application must be made **and** approved. It is very important to notify the MVD when deleting a line from the license. Notification is made by submitting a franchise amendment.

**3.21 Special Requirements or Exemptions for Vehicle Lessors and Lease Facilitators.** Vehicle lessors may be located in any state; lease facilitators must have a physical location in Texas. A vehicle lessor is required to obtain a license for its primary physical location; a separate

license is not required for each individual location. Each additional location is listed as satellite offices. A lease facilitator must have a license for **each** physical location from which he or she operates. Both, vehicle lessors and lease facilitators, must apply for a new license if they relocate to another city. For relocations within the same city limits, an amendment application is required. A change in a vehicle lessor's satellite office[s] only requires an amendment application.

**3.22 Cancellation of Dealer's License.** The requirements needed to obtain a license must be maintained throughout the license period to keep the license valid. If any of the requirements lapse, the dealer's license is at risk of being canceled. If a dealer is going out of business, the dealer must notify the agency in writing within ten (10) days. A license may be voluntarily surrendered via the dealer's eLICENSING account.

**3.23 Denial of Initial or Renewal Application for Dealer's License.** If a licensee fails to meet or maintain the requirements of a license, the MVD may deny any application for a new license or the renewal of a license. The agency will send a letter advising the reasons for denial of the new license or renewal. (See Section 3.25 of this chapter for more on applicant's rights after a denial.

**3.24 Renewing Dealer Licenses.** License renewals must be submitted online using the Department's eLICENSING system. Failure to receive the renewal notice does not excuse a late renewal. The renewal application and all required attachments should be submitted to the agency at least 45 days before the license expires to allow time for processing and issuance of a new license and renewal stickers. If a licensee submits a timely and sufficient renewal application prior to the license expiration date, the licensee may continue business activities while the renewal application is being processed. If a licensee submits a renewal application after the license expiration date, the licensee is not authorized to continue licensed activities, such as going to auction to buy vehicles and having access to eTags, until the license is renewed. A penalty of 50 percent of the application fee is assessed for each 30-day period the license is expired. If a renewal application is not received within 90 days after the license expiration date, the licensee will have to submit an application for a new license.

**3.25 Applicant's Procedures and Rights.** Licensees or applicants who are denied a new license or renewal are notified of the denial and have 26 days to submit a written request for a hearing. Failure to correspond with the department within that 26-day time period will be considered a waiver of the applicant/licensee's right to a hearing, and a final order will be issued. If a request for hearing is received within 26 days, a hearing will be set with the Office of Administrative Hearings and the agency will send notification of the hearing to the licensee or applicant. If a renewal is denied and a request for hearing is granted, 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. See Chapter 12 for more information on the hearing process.

## CHAPTER 4.

### COMPLIANCE & DEALER OPERATIONS

**4.1 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 is required to keep abreast of the various laws and the changes that may occur by attending seminars, reading special mail-outs from the different agencies, and being familiar with the following codes and rules. 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 manual 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. It now includes independent dealers and is applied in transactions involving used vehicles. Leasing of vehicles and the licensing of vehicle 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 licensing, and traffic signals to the 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 from \$50 to \$1,000. 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 TxDMV Rules.** All the rules adopted by administrative agencies in Texas are compiled in the Texas Administrative Code (TAC). All rules adopted by the Texas Department of Motor Vehicles Board along with the rules promulgated to administer Transportation Code Chapter 503 are found in Title 43, Chapter 215 of the TAC. These rules detail the requirements for 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 Department regarding advertising motor vehicles are found at 43 TAC Subchapter H, §§ 215.241-215.271. These rules apply to both new and used vehicles, unless explicitly stated otherwise in the rule. See Chapter 10 on the advertising rules for more information as to what is required when advertising.

**e. Leasing Rules.** In 1995, the Legislature passed a law that amended the Occupations Code requiring licensing of vehicle lessors and lease facilitators. Rules adopted by the TxDMV regarding requirements for licenses, records and premises are found at 43 TAC Subchapter F, §§ 215.171-215.181.

**f. Lemon Law and Warranty Repair Rules.** Warranty performance obligations are commonly known as the Lemon Law. Warranty performance obligations are set out in § 2301.601 *et seq.* of the Occupations Code. The rules that set out how the Lemon Law and Warranty Repair will be administered are found at 43 TAC Subchapter G, §§ 215.201-215.210. This is where you will find out how a vehicle qualifies for repurchase, replacement, or repair under the Lemon Law and Warranty Repair, and how consumer complaints are handled. Section 2301.204 of the Occupations Code covers repair requirements to motor vehicles with defects that are reported during the term of the existing manufacturers' warranty in order to maintain the vehicle in operating condition. These cases, like the Lemon Law cases, if not settled informally, can be referred to a TxDMV hearings examiner administrative law judge for hearing and final decision.

**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.

**4.2 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 the TxDMV for longer periods of time. Dealers are responsible for complying with all record-keeping requirements.

The TxDMV requires a dealer to keep a complete, accurate record of all vehicle purchases and sales (retail or wholesale for a minimum period of 48 months. The current and previous 13 months of records must be kept at the dealer's licensed location and be available for inspection by a TxDMV representative. The remaining 35 months of records need not be kept at the dealer's licensed location.

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 TxDMV 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 the TxDMV may request copies of records by certified mail, fax or email. 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 TxDMV database at its website instantaneously to see if a person is licensed. 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 (14-313) can be found on page 7-8. (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, a TxDMV regional office or from the TxDMV website at [www.TxDMV.gov](http://www.TxDMV.gov). A copy of this form is shown on in Chapter 6. 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. See Page 4-39.
4. Odometer Disclosure Statement, if applicable.
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 TxDMV Form VTR-136, County of Title Issuance, on which the consumer elects which county they desire to have their vehicle registered in. See Chapter 6.

**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 Vehicle Titles & Registration office or their respective websites. VTR forms can be found on the TxDMV website. Forms involving taxes may be obtained from the State Comptroller's office or its website, [www.window.state.tx.us/taxinfo/taxforms/14-forms.html](http://www.window.state.tx.us/taxinfo/taxforms/14-forms.html).

Commonly used forms are the following:

1. The Dealer's Reassignment of Title for a Motor Vehicle Form (TxDMV 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 Chapter 6.
2. Texas Motor Vehicle Sales Tax Exemption Certificate – For Vehicles Taken Out of State (Comptroller's Form 14-312, see page 7-7.) 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 with a copy filed with the Comptroller and a copy to the buyer. 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. (Texas Tax Code § 152.101)

3. Texas Motor Vehicle *Seller-Financed* Sales Tax and/or surcharge report (Comptroller Form 14-117) which must be filed monthly by Seller-Financers. Form is available on the Comptrollers website. See Chapter 7 for more information.

**4.3 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 4-37.
2. A copy of the title should be at the dealer's licensed location for inspection by buyer or a TxDMV 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 4.2.

**4.4 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.

**4.5 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 may be 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.

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 enforcement division does not sue dealers under the DTPA, but some business practices found in DTPA lawsuits brought by consumers may trigger disciplinary action by the department 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 can create 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 TxDMV website.

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 damages of *any* dollar amount are not disclosed, the dealer may be in violation of DTPA.

**4.6 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.

**4.7 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 submits 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. The Buyer's Guide (Guide) may be hung from the rear-view mirror inside the vehicle or on a side view mirror outside the car. The dealer may 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 4-38.

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 TxDMV 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.** It is **not required**, but strongly suggested that the buyer sign the guide for protection of the dealer.

More details about the Buyer's Guide can be obtained from a dealer's guide at the FTC website at <http://www.ftc.gov/bcp/edu/pubs/business/autos/bus13.shtm>. The guide is available in English <http://www.ftc.gov/bcp/edu/resources/forms/buyers.pdf> or in Spanish at <http://www.ftc.gov/bcp/edu/resources/forms/s-buyers.pdf> or toll-free at 1-877-FTC-HELP. On page 4-45 there is a very informative brochure that is reprinted from the FTC's library that gives you even more information on the federal Used Car Rule.

**4.8 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 the TxDMV 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. See the chart on page 4-35 for a quick reference to dealer plate usage.

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 dealers' plates issued to that dealer and each vehicle assigned a license plate. The log must contain:

1. Assigned Metal Dealer's License Plate number;
2. Year and make of the vehicle displaying the Dealer's Plate;
3. Vehicle identification number (VIN); and
4. 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, must be available at the dealer's licensed location for review by a TxDMV representative during normal working hours. Metal dealer plates, not accounted for, will be voided by the TxDMV. A sample of a plate log is found on page 4-36.

**4.9 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 license 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 dealers 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 § 215.139 for dealers to obtain additional plates upon proof of sales. If a dealer is selling less than 50 vehicles a year, they are entitled to one (1 additional plate; those selling 50 – 99 vehicles a year may obtain two (2 additional plates, and those selling 100 – 200 vehicles may get 5 additional plates. Any dealer who sells more than 200 vehicles in a year may have an unlimited number of plates. A wholesale dealer may get one additional plate upon proof they are regularly and actively engaged in the business.

If a dealer needs more plates than allotted under the rule for their vehicle sales, a request to waive the plate limits may be submitted to the MVD. In the request the dealer must indicate the reason additional plates are necessary to the continuation of the dealer's business. Wholesale dealers may not apply to waive the dealer plate allotment restrictions.

**4.10 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 are attached to the rear license plate holder of vehicles. 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 must 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 must maintain a record of each Converter Plate issued to that converter that contains:

1. Assigned metal plate number;
2. Year and make of the vehicle to which the metal plate is affixed;
3. Vehicle identification number (VIN); and
4. Name of the person in control of the vehicle.

The converter's record must 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 will 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.

**4.11 Temporary e-Tags.** Under the internet based system called e-Tags, dealers who hold a GDN license may issue dealer temporary tags, initial buyer's temporary tags, and Internet-down temporary tags for each type of vehicle the dealer is licensed to sell. A converter may issue converter temporary tags only. Dealers and converters are required by law to have Internet access at their place of business to connect to the temporary tag database. e-Tags will be accessed through the TxDMV website at <https://etag.txdmv.gov/login/login.aspx>.

Entry of false information into the Internet based system may subject the user to revocation of access, the TxDMV 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 e-Tags database.

**a. Format.** Dealers and converters must issue a temporary tag with the information obtained from the state database (e-Tags). All tags must be printed or completed in black ink. Cardboard or cardboard backing material for temporary tags is no longer required except to prevent any paper tag from curling up in the wind. All temporary tags that are not of a water-resistant material must be sealed in a 2 mil clear poly bag that covers the entire tag and must be displayed in the rear license plate holder of unregistered vehicles.

Paper tags in bags should be secured with either double-sided tape on back of bag, or by tacking down within a plate holder to keep the tag from flapping up in the wind.

Display in the rear windows is not allowed. All printed information on a temporary tag must be visible and may not be covered or obstructed by any plate holder.

**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;
2. Convey or cause the vehicle to be conveyed:
  - From one of the dealer's places of business in this state to another of the dealer's places of business in this state;
  - From the dealer's place of business to a place where the vehicle is to be repaired, reconditioned, or serviced;
  - From the state line or a location in this state where the vehicle is unloaded to the dealer's place of business;
  - From the dealer's place of business to a place of business of another dealer;
  - From the point of purchase by the dealer to the dealer's place of business; or

- To road test the vehicle;
3. Use the vehicle in parades;
  4. Use by a charitable organization;
  5. Use on vehicles loaned to customers whose vehicles are being repaired.

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.
- 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 with no signs on the vehicle;
- 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 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 must remove its dealer's tag. 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.

Sometimes a dealer will allow a customer to take a vehicle with just a signed bailment agreement. In this instance, no sale has taken place and the proper tag to use on the vehicle is the dealer vehicle-specific tag.

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;
- (4) the month, day, and year of the tag's expiration; and
- (5) the name of the dealer.

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;
- (2) the month, day, and year of the tag's expiration;
- (3) and name of the dealer

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



**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. If the dealer is an out-of-state dealer and does not have dealer tags, then a dealer tag can be issued by the selling dealer. (Recommend dealer vehiclespecifictag). Buyer's Tags are valid for a period not to exceed 60 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 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;
- (4) the month, day, and year of the tag's expiration; and
- (5) the name of the dealer.

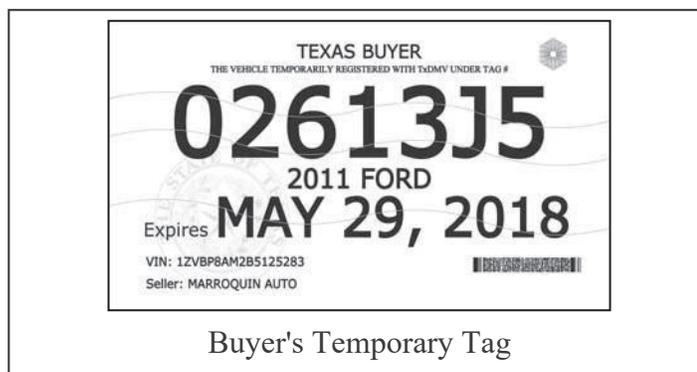
A dealer must provide a buyer's temporary tag receipt to the buyer of each vehicle to which a Buyer's Tag is issued regardless of whether the tag is issued in the ordinary course of business or is an Internet-down or emergency tag. The dealer may print the image of the receipt issued from the database or construct the form using the same information. The dealer must 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.

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 the TxDMV of the lienholder's tardiness and then the dealer should obtain for the buyer a 30-day permit from VTR which cost \$25 and require liability insurance to be shown. Supplemental temporary tags are no longer allowed.

If a dealer intends to transfer plates from the buyer's old vehicle, the dealer may put the plates on the vehicle and put the buyer's tag over the metal plates (See Section 4.37 for more information about plates to owner). Inform the buyer that until the vehicle is registered, the temporary e-Tag must stay on the vehicle as the sale information will not be available in the RTS database for 48 hours during which time the metal plates will not be recognized by law enforcement. The same holds true for those dealers who take the title application immediately and obtain plates to put on a vehicle before the buyer picks up the vehicle. A temporary tag is temporary registration and must be entered into the state database and the \$5 fee collected whether a temporary tag is actually put on the vehicle or not.

**d. \$5 fee for Buyer's Tag.** There is a \$5 fee charged to the consumer for the temporary registration evidenced by the e-Tag. This fee is paid to the Tax Assessor- Collector at the time of titling and registration. Since all sales must be registered in the e- Tags database, this fee must be collected and paid for each sale made regardless of whether a tag is put on the vehicle or not. The buyer's tag is the only tag that requires a fee. Exempt agencies are the only exception to collecting the \$5 fee. The only vehicles that do not require issuance of an e-Tag are ATVs, off-road motorcycles and salvage vehicles. These vehicles are not allowed to be driven on the roads.



**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. Converter's Tag must show its expiration date valid for a period not to exceed 60 calendar days, including the date the tag is issued.

A converter who issues a Converter's Tag to a specific vehicle must ensure that the

following information is placed on the tag:

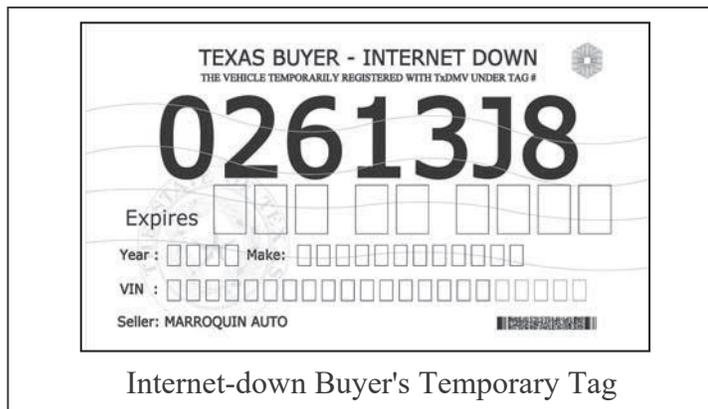
- (1) the vehicle-specific number from database;
- (2) the year and make of vehicle;
- (3) the vehicle identification number (VIN) of the vehicle;
- (4) the month, day, and year of the tag's expiration; and
- (5) the name of the converter.

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.



**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 that the dealer has access to the Internet. The Internet-down Buyer's Temporary Tag must be in the format as described above.



**g. Assigning Vehicles to Internet Tags.** In the instance of a sale occurring and a dealer using one of the Internet Down tags, the dealer must complete the receipt forms by hand, give one to the buyer and keep the dealer's copy of the receipt in their records. These records become part of those records required to be kept by dealers/converters for the TxDMV inspection. **Any dealer who uses an Internet tag must report the vehicle**

**information not later than 24 hours after the time that power or communication is restored.** Failure to do so will keep a dealer from getting additional tags and is a violation that could result in an enforcement action.

**h. Different License Types.** Licensees who have more than one license should be careful to use the proper license when issuing an e-Tag. For example, trailer dealers who have other retail GDNs to sell used vehicles, should only use the trailer GDN to log sales of trailers, not their vehicle GDN or their motorcycle GDN.

**4.12 Logs for the Temporary Tags.** Temporary tags are no longer required to be logged with the exception of the Internet Down tags.

**4.13 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 30 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 TxDMV office upon payment of \$25.00 and showing of the consumer's financial responsibility (liability insurance).

**4.14 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 page4-35.

**4.15 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, may 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 may be displayed that states in bold letters "For Off Highway Use Only."

**4.16 Special Exception for Auctions.** A wholesale motor vehicle auction may use dealer's tags and dealer plates. The auction may use wholesale dealer auction tags on those vehicles which they have bought, taken assignment on and are selling for themselves at the auction. If the wholesale auction GDN holder also has a dealer GDN, a buyer tag could be affixed to such purchased vehicles. 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.

**4.17 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.

**4.18 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 from their licensed lot. These dealers do not take assignment until vehicles are sold through their auction but must still transfer the titles to the purchaser before the 31<sup>st</sup> day after the sale.

**4.19 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 licensed location to the highest bidder. Only licensed dealers, not the public may attend the auction. Out-of-state dealers may attend if they hold a valid license in their home state. 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.

**4.20 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 the TxDMV 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 a 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.

**4.21 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. The TxDMV strongly advises dealers to wait until they have received the title before they sell that vehicle. Sometimes the title is lost following a sale, 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 the TxDMV 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 should have a buyback policy if the auction cannot get the title to the buyer within the 21-30 working-day period.

**4.22 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 § 215.148, 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.

**4.23 Motor Vehicle Shows and Exhibitions.** The general rule is that only *new* motor vehicles may be shown or exhibited away from the licensed premises. As described below, there are many different rules for the different types of licenses held and the vehicles that can be entered in an exhibition or show. To be absolutely sure of all requirements, licensees are encouraged to contact the TxDMV well in advance of any show or exhibition to determine if they may participate in that particular event. Some non-selling shows and exhibitions may be self-permitting, including some association-sponsored events. Forms are located online at the TxDMV website.

**a. Used Motor Vehicles.** There is no provision in the law for used motor vehicles to be displayed in a new motor vehicle show or exhibition held away from the dealer's licensed premises. Dealers of used motor vehicles may be approved for participation in a new motor vehicle show, to provide contact information for their dealership and to advertise the various services they may provide, however, the presence of vehicles is prohibited.

**b. New Motor Vehicles.** There are three types of motor vehicle events where motor vehicles may be approved for participation:

**1. Exhibitions** – A static display of motor vehicles in which one dealership participates, for example, a new Ford Mustang displayed at the local airport. Exhibitions may be approved for one day or more, but approval will not extend past six months or the renewal date of a license if less than six months remains on the active license term. No selling is permitted and personnel are generally not present.

**2. Motor Vehicle Shows** – Motor vehicle shows may include a variety of vehicle types. It is important to know whether or not the vehicle type being entered may be sold during the event. Dealers may not sell or offer to sell new motor vehicles such as cars, trucks, sport utility vehicles, motorcycles, motor scooters, all-terrain vehicles, neighborhood vehicles and recreational off-highway vehicles in motor vehicle shows.

Special provisions in the law allow the sales of ambulances, fire-fighting vehicles (vehicles licensed as fire trucks), towable recreational vehicles, motor homes, tow trucks, and trailers (examples: boat, cargo, livestock, motorcycle/motor scooter, watercraft and semitrailers) when approved for participation in motor vehicle shows.

**3. Recreational Vehicle Shows** – When three or more recreational vehicle (RV) dealers requesting to bring motor homes are approved for participation in a show that qualifies under Chapter 215.112 of the Texas Administrative Code, the event is considered an RV show where dealers may sell new motor homes. These regulations are for the sale of motor homes only. All other types of motor vehicles, as well as trailers, must meet the specific regulations governing the specific type of vehicle. When there is a mixture of vehicle types in a RV show, the vehicles which

cannot be sold may be required to post signage on the vehicles indicating they are not for sale at the event.

**c. Qualifications for Approval and Participation in a Motor Vehicle Show or Exhibition** - To qualify for approval to participate in a show or exhibition all licensees must: 1) complete the appropriate TxDMV authorization form, 2) hold a valid license, and 3) be licensed for the vehicle lines requested for entry in the event. The location of the show will be considered the market area of the closest dealer for each licensed vehicle line- make being entered, unless it is a motor home show. If the dealer is not the closest dealer to the event location, then the dealer making application must obtain waivers from any dealer(s) located physically closer to the event location. The waiver(s) should accompany the application for participation in the event submitted to the Department. Closer distance is calculated in a direct line and in a circumference from the show location. When participating in events, dealers must leave MSRP stickers on the vehicles as required by Federal law.

**d. Forms Required for Shows or Exhibitions.** Depending on the type of show or exhibition, participants must determine which form to use. *Self-Authorization* forms are designed for events where ALL PARTICIPANTS are prohibited from making sales. The *Licensee Participant Application* is designed for events where vehicle types which can be sold and others that cannot be sold are both being entered. For example, a *Licensee Participant Application* must be completed by all licensees for a show that will have both motorcycles which cannot be sold and motorcycle trailers which can be sold at the event. The *Licensee Participant Application* should also be used if an applicant is unsure of the types of vehicles being entered or when they know towable recreational vehicles, trailers, emergency vehicles, tow trucks or motor homes are participating in the event. **A licensee may not participate in an event where a *Licensee Participant Application* is required until written approval from TxDMV is received. Please note that the Department does not send a written response for the *Self-Authorization* forms it receives unless it is denied, however, applicants may call the Motor Vehicle Division to verify receipt.**

*REMEMBER* – the *Licensee Participant Application* form is for events where some vehicle types may be approved for sales, however, new automobiles, trucks, all-terrain vehicles, neighborhood vehicles, recreational off-highway vehicles, motorcycles, and motor scooters are **never** approved for sales at such events.

If a licensee is participating in a succession of recurring exhibitions taking place at the same location or at multiple locations, a list that includes the dates and locations of the exhibitions may be attached to a *Self-Authorization* form.

**The TxDMV website has additional information on shows and exhibitions and required forms for participation that may be downloaded. Downloading the form from the website ensures you have the most current version of the form. Be certain to review the information online and read the provisions carefully. All forms for event participation may be submitted by fax, e-mail or by mail.**

**e. Special Rules for Motorhome Shows.** Under state law, promoters or coordinators must make application for a motor home show not more than 90 days before and at least 30 days before the show date to be approved. Under the law, motorhomes may be sold at

approved shows, but there must be at least three motor home dealers, representing 3 different vehicle lines in the show. No dealer located outside of a 70-mile radius of the show site representing the same vehicle line can participate without written permission of all like-line dealers located within the 70-mile radius of the show site. The show may not last longer than 6 days, and all participating dealers must suspend motor home sales on the same day if the show extends over a consecutive Saturday and Sunday to remain in compliance with the blue law. Dealers of motor homes MAY open their units on Sunday; MAY attend their units on Sunday; MAY quote a price on their units on Sunday; and MAY discuss finance options; but MAY NOT close sales or finalize a sale; MAY NOT enter into contracts; AND may not enter into letters of intention to contract. All motor home shows in the same county must be scheduled at least 90 days apart unless specific permission has been given by TxDMV for good cause.

**f. Trailers.** Trailers and towable recreational vehicles may only be approved for participation and sale at regularly scheduled motor vehicle and boat shows when a minimum of two different dealers are participating. This could be: 1 two trailer/semitrailer dealers 2 two towable recreational vehicle dealers, or 3 one trailer/semitrailer dealer and one towable recreational vehicle dealer.

**g. Fire-Fighting Vehicles and Ambulances.** Fire-fighting vehicles (vehicles meeting the description in the Occupations Code Chapter 2301.002 and licensed as a fire-truck and ambulances may also be sold at shows when approved by the Department.

**h. Advertising a Show.** All advertising of any motor vehicle show or exhibition must comply with 43 TAC §§ 215.241 – 215.271, the TxDMV advertising rules, which can be found on the TxDMV website.

**i. Location of the Event.** The physical address of the event location must be noted on the show form. If the event is being held on a business premise where regularly conducted commercial activity occurs, such as a financial institution, department store, mall parking lot, etc. then the vehicle(s) must have visible and clearly stated signage posted indicating they are not for sale at the location and there can be no offers to sell. Licensees are generally discouraged from exhibiting vehicles at another licensee's licensed location to deter illegal sales and avoid the perception by the public that visiting vehicles may be purchased or serviced at the location where they are not licensed for sales. Licensees are not approved to exhibit vehicles at another dealer's licensed location with the same motor vehicle type product. When approved for participation, vehicles from the visiting licensee must have visible and clearly stated signage posted on the vehicles indicating they are not for sale at the location.

**4.24 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 11-3. The content of this form is prescribed by the TxDMV and should be given to the consumer at the same time the buyer signs the sales contract.

**4.25 Selling to Foreign Buyers Rule.** Any dealer who sells motor vehicles to foreign buyers are required to verify the identity of the buyer and stamp the title with the words "For Export Only" and the selling dealer's or auto auction's General Distinguishing Number showing the vehicle as an exported vehicle. This rule was passed at the request of dealers. It is designed to give the TxDMV one more tool to reduce curbstoning. The rule is known as the "Foreign Buyer Rule" and is directed at foreign dealers and buyers who buy vehicles 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 TxDMV staff that then wrote the rule and presented it to the Board. The rule was worded to apply to sales to any person claiming to buy vehicles for exporting.

**a. Verifying Identity of Buyer.** A dealer should obtain a copy of the driver's 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 4-41 for a sample of the stamp and where to stamp a title.

**c. Notifying the Department.** The rules also require dealers to notify the department when a vehicle is sold for export. This notification consists of checking the "vehicle for export" box when requesting a buyer's e-Tag through the e-Tags system.

**4.26 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 additional locations.

**4.27 License Plate Holders.** 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.

**4.28 Moving the Dealership.** All licensees are required to keep the department advised of their most current address. **The TxDMV 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 the TxDMV 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.

**4.29 Trailer Dealers and VINs.** With the advent of e-Tags, 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. TxDMV 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 4-43 of this section.

**4.30 Specific Violations under Transportation Code § 503.038.** The following are specific violations found in the Transportation Code § 503.038 that may result in the cancellation of a GDN:

**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 tag on a vehicle that the dealer does not own or control or that is not in stock and offered for sale.

**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 Occupations Code. Civil penalties can range from \$50 to \$10,000 per violation per day.

This also includes keeping the security bond in full amount at all times. If a claim is made on the bond and paid, the dealer must bring the bond back to the full amount immediately. See Licensing Chapter 3 for more information on the bond.

The department will 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 must surrender to a representative of the department each license plate, temporary cardboard tag, sticker and receipt issued under this chapter not later than the 10<sup>th</sup> day after the date the GDN is canceled. The department will 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 503 to the person as a dealer.

**h. Refusal to provide evidence of being in business.** A dealer must provide satisfactory and reasonable evidence that the person is regularly and actively engaged in business as a wholesale or retail dealer within 30 days after a demand is made by TxDMV.

**i. Not Remaining Regularly and Actively Engaged in the Business.** , Those persons who make fewer than five (5) sales per year will have their license challenged. Texas law now *requires* tax appraisal districts to turn in to the TxDMV 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. Wholesale transactions will count towards the required five sales.

**j. Failing to Report or Pay Taxes.** Although the TxDMV does not collect taxes, those dealers who fail to properly report and pay state sales taxes or vehicle inventory taxes, could incur 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 licensed premises. (*See* Tex. Transp. Code §§ 503.201, 503.032 and 43 TAC §§ 215.133, 215.140). 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 4.23 of this manual.

**m. Failure to apply for title within 30 calendar 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 30 calendar days of the purchase. There are only two valid defenses for

the dealer 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 tendered payment in full to the lienholder of the vehicle, but the lienholder has failed to issue a release of lien within 10 days after the date on which the amount is tendered. This is known as the “lienholder excuse.” See Section 4.13 for more information on the 30-day permit. A Seller-Financed sale allows 45 calendar days to apply for title.

If the lienholder has failed to issue a release of the lien to the dealer after payoff, the dealer should notify the enforcement division of the TxDMV of such non-compliance so the dealer will not be held responsible. Dealers now have 15 days to pay off a lien on a trade-in once they have the vehicle and proper paperwork to pay the lien.

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.** 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 the TxDMV that has been filed by the consumer who bought a vehicle from a dealer. *Exception:* 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. Dealer has 20 working days to provide the buyer any necessary forms to register in their state.

**o. Failing to Notify the TxDMV of Change of Address.** As previously stated, any change in information contained on the licensed entity’s most recent application, including physical or mailing address, must be reported within 10 days of the change. *It is critical that any change of address be promptly reported to the TxDMV in order to ensure that dealers are provided with any and all necessary notices that could affect your operations.*

**p. Incomplete or No Records.** Rules require records to be kept for at least 48 months. The current and immediately preceding 13 months must be available for inspection at the dealer’s location. Records from the prior 35 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 TxDMV 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, floor-planner 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. Fraud is also cited when a dealer files a false tax or title document.

**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 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 bailment contract.

**t. Dehorsing.** Dehorsing occurs 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 (TxDOT). 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.

**4.31 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 Texas 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.

**4.32 Unlicensed Sales.** No person, unless exempted by the Occupations Code as noted in Chapter 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.

There are several different types of unlicensed sales including:

- A GDN and/or franchised license holder sells or offer to sell a vehicle at a location that the dealer has not been licensed by TxDMV to conduct business at.

- A GDN license holder sells a new vehicle without also holding a franchised license.
- A franchised license holder sells a new vehicle they do not have a license to sell. For example, a franchised dealer licensed to sell new Ford Trucks sells a new Chevrolet Truck. Chevrolet Truck is not an approved line the dealer is authorized to sell.
- A GDN and/or franchise license holder sells a used vehicle without holding the corresponding vehicle type of GDN license to do so. For example, a motor vehicle GDN license holder sells a used motorcycle through a retail sale without a motorcycle GDN license.

Although a license holder may file an application to amend their license or apply for an additional license, until the application is approved any sales or offers to sell under the requested license or amended changes are illegal.

**4.33 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. This general prohibition is usually applied to those dealers who willfully defraud a consumer.

**4.34 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 §§ 215.84-215.85 for the full text of the broker rules.

**a. New motor vehicles.** Note the definition of a new motor vehicle under the Definitions section. 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.
- Do not violate the advertising rules.

**4.35 Vehicle Transfer Notice.** When a vehicle is taken in on trade or is sold in a casual sale, the vehicle owners now have the ability to notify the department that they no longer own the vehicle. e-Tags made this very easy to do with a simple form that may be filled out and submitted to the department electronically. There is no charge for this service. While the law is not mandatory at this time, dealers can offer to fill out this form for the customer, print it out and hand it to them to mail or file it direct electronically. Delivery of this notice to the department puts a note in the RTS system advising queries that this vehicle is no longer owned by the person to whom the system reflects as the title owner.

**4.36 Choice of County to register Vehicle.** There are three locations where a vehicle may be titled:

1. The county where the vehicle was sold;
2. The county where the lienholder resides;
3. The county where the buyer resides;

In the past the dealer chose where he wanted to register the vehicle, but the law changed and it is now the buyer's choice. There is a simple form that the buyer fills out and signs at the time of sale indicating where they wish the vehicle to be registered. This form requires that the **BUYER** fill in the county of choice in their own handwriting. Dealers should NOT have this form prefilled. This form is VTR-136, County of Title Issuance and is found in Chapter 6.

**4.37 Transfer of Vehicle Registration and Removal of License Plates.** Metal Plates should be removed from a vehicle taken in on trade along with the registration sticker. The past owner of the vehicle may keep the plates or they may wish to have the plates put on the vehicle they buy to replace the trade-in. If the owner of the vehicle wishes to have the old plates put on their new vehicle, then the dealer will title the vehicle and transfer the registration to the new vehicle. If the owner does not buy a vehicle, then the dealer just gives the owner the old plates and the registration sticker. Either way, the dealer should deliver the plates to the owner. If the plate age is 6 years or less, the plates may be transferred to another vehicle. If the plate age is 7 years or more, the plates must be replaced due to loss of plate reflectivity. Currently, the Plates to Owner Law is limited to cars and light trucks one ton or less. Plates can only be transferred to same classification vehicles (Car-to-car, truck-to-truck).

The customer is charged the same fees as current, unless customer is transferring a set of license plates to the newly-purchased vehicle and the additional \$5 plate transfer fee would apply. If there are no plates to transfer, no charge replacement plates will be issued. When the dealer takes the license plates and sticker off the vehicle, it doesn't affect any registration on the vehicle as the registration stays with the vehicle. If a 2005 Honda is traded in and the registration expiration date is Aug. 2010, the person that purchases the 2005 Honda will receive new plates and sticker (no charge) at the time of title and will still have Aug. 2010 expiration.

If a dealer buys a vehicle from an auction and it does not have plates or registration sticker on it, the time left on the registration, if any, can be found by entering the VIN in the V21 database for a buyer's tag and the registration information will appear.

For vehicles taken on consignment, the plates should be removed and stored, but not the sticker. If the vehicle is sold, then the sticker should be removed at that time. This is because if the consigned vehicle does not sell, the dealer must return the vehicle with the plates and sticker to the owner.

As a courtesy to the buyers, the dealer may put the plates on the new vehicle and put the buyer's temporary tag over the metal plates. The customer needs to understand the tag should not be removed until the dealer sends them the registration sticker indicating that the plates are now registered with the new vehicle.

**4.38 Special Handling of Out-of-State & Out-of-Country Sales.** Out-of-state and out-of-country procedures differ slightly from the norm when a dealer sells a vehicle that will be leaving the state. Handling titles, e-Tags, and taxes can be confusing, but dealers can benefit from learning to recognize the differences and train employees to handle these matters accordingly.

**a. Export Sales.** First, differentiate a "foreign" sale, as applied in the For Export Only rule, as pertaining to out-of-country sales, *not* out-of-state. The Export Sales rule can be found in the Admin Code at 43 TAC § 215.147. This rule sets out the requirements for

dealers handling a sale to a foreign buyer. (See previous Section 4.25) The rule originally was passed to apply only to foreign dealers, but was amended in February of 2010 to include all foreign buyers, retail and wholesale.

The first requirement is to obtain identification of the individual who is buying the vehicle. The identification document must be issued by the jurisdiction where the buyer resides and may consist of a passport; a driver's license; a consular identity document; a national identification certificate or identity document; or other identification issued by the jurisdiction where the buyer resides that is able to be verified by law enforcement including the name of the jurisdiction; the buyer's full name, foreign address, date of birth, photograph, and signature. It is important to make a copy of the document to be kept in the records of the dealer.

The second requirement is to complete the Texas Motor Vehicle Sales Tax Exemption Certificate for Vehicles Taken Out of State Form 14-312. It is completed whether the vehicle is going to another state or another country (see form on page 7-7). Note the new form and the requirements printed thereon to send the completed form to the Comptroller and advise the buyer you are doing so.

Finally, the dealer must stamp the title once on the front of the title in an area that does not cover any information and on the back of the title in each and every unused reassignment blank. The stamp must be at least 2 inches wide and have the words "For Export Only" with the dealer's license number (See example on page 4-42).

A copy of the front and back of the stamped title, the Comptroller's form, and the buyer's identification document are all required to be kept in the dealer's sales file as a record of the out-of-country sale.

**b. Temporary Tags – Retail Sales.** e-Tags are another aspect of vehicles leaving the state. All retail sales must be registered in the e-Tag database system, regardless of whether the vehicles are driven out of Texas or hauled by any means. A buyer's tag must be affixed to a vehicle being driven out of the state. Even if the vehicle is being towed or transported by carrier and not requiring a tag to be affixed to the vehicle, a tag must be logged in the system and given to the transporter or placed in the vehicle. The \$5 tag fee must be collected from all retail buyers unless the buyer is an exempt agency. When preparing the buyer's tag in e-Tags, pay special attention to the questions:

**Is this vehicle to be exported?\***  Yes  No

**Will this vehicle be titled/registered out of Texas?\***  Yes  No

**c. Wholesale Sales.** When selling out of state or out of country, if the transaction is a wholesale transaction, no e-Tag is required. While vehicles being towed by other registered vehicles, and transported vehicles are not required to have a tag, some wholesale buyers may receive some grief from law enforcement if they are driving a vehicle with no plate or temporary tag on it. So it is important to let your out of state dealer know he needs

to bring a dealer plate or temp tag from his state to put on the vehicle if he intends to drive it back to his home state because the selling Texas dealer may not put his dealer temporary tag on the sold wholesale vehicle. The key is the transport method. If the vehicle is “cargo,” being pulled by a registered vehicle or carried by a transport, then no tag is required. The question always arises: What if the Mexico dealer has no dealer tag or plate? Though the rules do not provide for this situation and law enforcement may stop the driver, we suggest a vehicle-specific dealer temporary tag valid for only a few days.

**d. Handling Titles.** If vehicles are going out of the country, Customs requires that the titles accompany the vehicles whether with a Bill of Lading or other documents. Once Customs stamps the titles, they are returned to the owner of the vehicle.

If the vehicle is going out of state, you must give the title papers to the buyer within 20 days of the sale for registering in the other state.

**Taxes.** As stated above, if the vehicle is going out of state or out of country, the Comptroller’s exemption form must be completed, signed, and sent to the Comptroller. Detailed instructions are found on the form. However, there are always the “what if” questions.

*What if the buyer is not taking the vehicle immediately, but 3 months or 3 weeks later after their Texas summer vacation is over?* The motor vehicle tax is a “use tax” not a sales tax and if the vehicle is being used in Texas for any length of time, i.e. other than being immediately removed, then the tax is due. The Comptroller defines this as ‘no use of the vehicle in Texas other than the immediate transportation of the vehicle out of the state.’ If the buyer registers the vehicle in their state later, they may apply for a refund from the Texas Comptroller.

*What if the buyer is a Texas dad who is buying the vehicle for his OU son who is driving the vehicle immediately to Oklahoma?* The Texas exemption is predicated on exclusive use out of state. As long as the vehicle is titled and registered out of state, and remains out of state, the exemption would apply. Nevertheless, if the vehicle is brought back into Texas at some point, then Texas tax is due. If Oklahoma tax had been paid at the time of Oklahoma registration, then the Comptroller would allow a credit for the Oklahoma tax toward the Texas tax. This would hold true even if the son, who presumably is also a Texas resident, titles and registers the vehicle in his own name outside Texas and then brings it back into the state at some point. Again, if the son will be attending school in Oklahoma but driving home to Texas on occasion, then he should pay the Texas tax at the time of purchase. The use will not be exclusively outside Texas.

There is a second consideration in this scenario. When the father purchases the vehicle, the selling dealer has a responsibility to look to the issue of good faith before accepting an exemption certificate. A Texas home address or a Texas driver’s license is a typical “red flag” that would alert a dealer to the possibility that a motor vehicle is being purchased for Texas use, and the dealer would then have reason to question that the transaction involves a person taking the vehicle out of state for exclusive use. In such a

case, with good faith in question, the dealer would typically collect the tax and then the purchaser would need to seek a refund from the Comptroller, having taken the vehicle directly out of state for titling, registration and exclusive use. Even in that case, the exemption should be sought as soon as possible, inasmuch as the person will need to prove that no use, other than transportation directly out of the state (i.e., no other use, such as vacation travel, etc.) had occurred in Texas prior to the out-of-state titling and registration. This can become a harder thing to demonstrate with the passage of time, particularly when trying to prove that Texas use *did not* occur, because exemptions must be narrowly construed and must be proved by clear and convincing evidence.

If you have a buyer that shows up with Texas identification and has no reason for an exemption other than he plans on registering elsewhere, and refuses to sign the Comptroller's form which has a felony for perjury admonition, you probably should err on the side of caution and collect the tax from him. It is always a good idea to get identification from your buyer. In fact there are other laws out there that require identification of the buyer to be obtained and kept in records, see Occupations Code § 2305.004.

In summary, for out-of-state sales:

1. Either collect the MV tax or get the Comptroller's exemption form signed;
2. Obtain the same identification you require for in-state sales;
3. Give the title paperwork to the buyer within 20 working days;
4. For a retail sale, issue a buyer's tag and collect the \$5 e-tag fee;
5. For a wholesale transaction, inform your buyer he needs a tag from his state if he plans on driving vehicle back.

For out-of-country sales:

1. Either collect the MV tax or get the Comptroller's exemption form signed;
2. Obtain the buyer's photo identification issued by the jurisdiction where the buyer resides;
3. Stamp title "For Export Only" and give to the buyer. Title must accompany vehicles for Customs;
4. For a retail sale, issue a buyer's tag and collect the \$5 e-tag fee;
5. For a wholesale transaction, inform your buyer he needs a tag from his country if he plans on driving vehicle back.

# E-Tag Dealer Plate & Tag Usage



**DEALER'S METAL PLATE**

Uses:  
 1) Vehicle demonstration  
 2) Personal use  
 3) Only on vehicles dealer is licensed to sell

Only one plate is issued for display on vehicle and must be displayed and properly secured in rear plate holder.

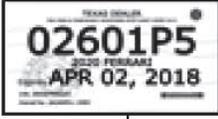
**MUST** have current inspection

**CANNOT** display signs on vehicle

**CANNOT** be displayed on a laden commercial vehicle carrying a load

**TITLE** must be in name of or assigned to dealership

There is a special provision under the law for independent dealers carrying vehicles to and from the auction



**DEALER OR CONVERTER'S TEMP TAG - VEHICLE SPECIFIC**

Uses:  
 1) Vehicle demonstration  
 2) Transit from dealer to dealer, auction, reconditioning, etc.  
 3) May be used on a loaner to a customer while vehicle is being repaired

**CANNOT** be used for carrying a load UNLESS vehicle is carrying another vehicle with a temp tag from same dealer on the way to or from the auction

Cannot be used by dealership personnel for personal use

**MUST** be displayed and properly secured in rear plate holder

Does NOT need current inspection

**CANNOT** display signs on vehicle

Valid from 1 to 60 calendar days  
 More than one tag may be issued to any agent but only one tag may be assigned to any specific vehicle at a time

**TITLE** must be in name of or assigned to dealership



**DEALER'S TEMP TAG - AGENT SPECIFIC**



**BUYER'S TEMP TAG & RECEIPT**

Issued to a retail purchaser

**MUST** have current inspection if titled in Texas

**MUST** be displayed and properly secured in rear plate holder

**MUST** keep Buyer's Tag Receipt in vehicle until registered

If tag is stolen or lost, replacement is reprinted with original expiration date

**CAN** display signs and carry load on vehicle

**TAG** is good for 60 calendar days (Effective 9-1-2009)

Dealer is required to apply for title and registration within 20 working days of the date of sale or 45 calendar days if Seller financed.

No inspection if retail out of state/export sale



**INTERNET DOWN TEMP TAG & RECEIPT**

**USED** when Internet is down as an alternate Buyer's tag. Tags and receipts are pre-printed by dealer with the assigned number. Buyer and vehicle info is hand-printed by the dealer.

Dealer required to enter all info into E-Tag database within 24 hours of resuming Internet service.

Same requirements and uses as Buyer's Temp Tag



Texas Department of Motor Vehicles



## 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

VEHICLE IDENTIFICATION NUMBER(VIN)

## WARRANTIES FOR THIS VEHICLE:

### AS IS - NO DEALER WARRANTY

THE DEALER DOES NOT PROVIDE A WARRANTY FOR ANY REPAIRS AFTER SALE.

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### DEALER WARRANTY

- FULL WARRANTY.
- 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, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

**SYSTEMS COVERED:**

**DURATION:**

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## NON-DEALER WARRANTIES FOR THIS VEHICLE:

- MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.
- MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.
- OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

- SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

**ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.**

**OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS.** For information on how to obtain a vehicle history report, visit [ftc.gov/usedcars](http://ftc.gov/usedcars). To check for open safety recalls, visit [safercar.gov](http://safercar.gov). You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

**SEE OTHER SIDE** for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

# 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

VEHICLE IDENTIFICATION NUMBER(VIN)

## WARRANTIES FOR THIS VEHICLE:

### IMPLIED WARRANTIES ONLY

The dealer doesn't make any promises to fix things that need repair when you buy the vehicle or afterward. But *implied warranties* under your state's laws may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

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### DEALER WARRANTY

- FULL WARRANTY.
- 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, and for any documents that explain warranty coverage, exclusions, and the dealer's repair obligations. *Implied warranties* under your state's laws may give you additional rights.

**SYSTEMS COVERED:**

**DURATION:**

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## NON-DEALER WARRANTIES FOR THIS VEHICLE:

- MANUFACTURER'S WARRANTY STILL APPLIES. The manufacturer's original warranty has not expired on some components of the vehicle.
- MANUFACTURER'S USED VEHICLE WARRANTY APPLIES.
- OTHER USED VEHICLE WARRANTY APPLIES.

Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.

- SERVICE CONTRACT. A service contract on this vehicle is available for an extra charge. Ask for details about coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of your purchase of this vehicle, *implied warranties* under your state's laws may give you additional rights.

**ASK THE DEALER IF YOUR MECHANIC CAN INSPECT THE VEHICLE ON OR OFF THE LOT.**

**OBTAIN A VEHICLE HISTORY REPORT AND CHECK FOR OPEN SAFETY RECALLS.** For information on how to obtain a vehicle history report, visit [ftc.gov/usedcars](http://ftc.gov/usedcars). To check for open safety recalls, visit [safercar.gov](http://safercar.gov). You will need the vehicle identification number (VIN) shown above to make the best use of the resources on these sites.

**SEE OTHER SIDE** for important additional information, including a list of major defects that may occur in used motor vehicles.

Si el concesionario gestiona la venta en español, pídale una copia de la Guía del Comprador en español.

Here is a list of some major defects that may occur in used 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 chatters

**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 line (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

**Air Bags**

**Steering System**

Too much free play at steering wheel (DOT specs.)  
Free play in linkage more than 1/4 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  
Catalytic Converter

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DEALER NAME

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ADDRESS

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TELEPHONE

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EMAIL

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FOR COMPLAINTS AFTER SALE, CONTACT:

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

ILLUSTRATION OF WHERE TO PLACE "FOR EXPORT ONLY" STAMP

TEXAS CERTIFICATE OF TITLE ORIGINAL 24008735

VEHICLE IDENTIFICATION NUMBER: RM [REDACTED] YEAR MODEL: 1979 MAKE OF VEHICLE: TOYT BODY STYLE: 2D

WEIGHT: 2600 LICENSE NUMBER: 0572093511 EXPIRES: 03/06/96

OWNER'S NAME: [REDACTED] COUNTY: DALLAS, TX 75224

**FOR EXPORT ONLY**

DATE OF SALE: NONE

IT IS HEREBY CERTIFIED THAT THE PERSON HEREIN NAMED IS THE OWNER OF THE VEHICLE DESCRIBED ABOVE SUBJECT TO THE ABOVE LAWS.

RIGHTS OF SURVIVORSHIP OWNERSHIP AGREEMENT

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, Nuevo Laredo, Mexico

Mileage: 87,654

Date of Sale: 1/22/02

Signature of Seller: Jose Diaz

Signature of Buyer: John Doe, Texas Autos P67894

Signature of Agent: Jose Diaz

**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]

Mileage: [REDACTED]

Date of Sale: [REDACTED]

Signature of Seller: [REDACTED]

Signature of Buyer: [REDACTED]

Signature of Agent: [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]

Mileage: [REDACTED]

Date of Sale: [REDACTED]

Signature of Seller: [REDACTED]

Signature of Buyer: [REDACTED]

Signature of Agent: [REDACTED]

**FOR EXPORT ONLY P12345A**

LENDER TO BE RECORDED AND SHOWN ON NEW TITLE. SET LIEV IN FAVOR OF (NAME & ADDRESS)

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 Vehicle 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 Manufacturer's 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](http://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 samejob."

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](http://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

#### Chapter 348, Texas Finance Code

*Preface: Companies that finance motor vehicle sales in Texas are licensed and regulated by the Office of Consumer Credit Commissioner (OCCC). Dealers who provide customer financing or who arrange for customer financing are required to be licensed by the OCCC. Finance companies that acquire or purchase motor vehicle retail installment contracts from dealerships are also required to obtain licenses from the OCCC.*

*This section will provide an overview of key concepts related to motor vehicle sales financing, but does not address specific statutes and rules administered by the OCCC. To enhance your general understanding of the topics, the material is presented in as familiar language as possible; terms defined in this section may not use specific wording contained within Chapter 348 of the Texas Finance Code but will convey the meaning and intent of applicable statutes and rules. Dealers who have specific questions regarding motor vehicle sales financing are urged to contact the Office of Consumer Credit Commissioner at 512-936-7600 or [www.occc.texas.gov](http://www.occc.texas.gov).*

#### CASH TRANSACTIONS

**5.1 Cash Sale.** Chapter 348 of the Texas Finance Code does not provide a formal and specific definition of a “cash sale”. In general terms, a cash sale is any sale in which the retail seller collects the total cash price of the vehicle before delivery of the vehicle to the retail buyer.

**5.2 Cash Sales Required Documents.** The Texas Transportation Code and rules promulgated by the TxDMV establish the recordkeeping requirements for cash sales. Examples of required records include, but are not limited to, the sales contract or purchase order, Buyer’s Guide signed by the consumer, front and back copies of the vehicle title, and the title application receipt. The OCCC does not regulate cash sales, and specific questions about document retention for cash sales should be directed to the TxDMV. If the dealer or dealership engages in cash-only sales, and does not provide or arrange for financing, licenses are not required by the OCCC.

#### FINANCED TRANSACTIONS

**5.3 Deferred Collection of the Cash Price.** The Texas Finance Code defines financing to be an “installment sales transaction” in which a retail buyer purchases a motor vehicle from a retail seller for personal, family, or household use and agrees with the retail seller to pay part or all of the cash price in one or more deferred installments. The assessment of a finance charge is not a determining factor. The cash price may include TT&L or TT&L may be itemized separately in the agreement and not included in the cash price.

- a. **Cash Sale – No License Required:** If the retail seller does not include the TT&L in the cash price and collects the cash price in full at the time of delivery, but subsequently collects the TT&L after delivery, the transaction is considered to be a cash sale and is not subject to regulation by the OCCC.
- b. **Retail Installment Transaction – License Required:** A retail seller may add tax, title and registration fees in the cash price of the vehicle. However, if a retail seller defers the collection of any part of the cash price after delivery, the transaction is no longer considered a cash sale and the retail seller must be licensed by the OCCC.

#### **5.4 Seller-Finance License Required.**

- a. A “holder” is defined as "a retail seller; or the assignee or transferee of a retail installment contract." (Tex. Fin. Code § 348.001(3)). *(A holder may also be referred to as a creditor in later portions of this document.)*
- b. A “retail seller” is defined as "a person in the business of selling motor vehicles to retail buyers in retail installment transactions" (Tex. Fin. Code § 348.001(8)). Any motor vehicle dealer who provides customer financing, with or without assessing finance charges, is considered a “holder” and must be licensed by the OCCC. Additionally, any company that provides customer financing for dealers within the state of Texas is considered a “holder” and must be licensed by the OCCC. The licensing requirement applies to dealers who provide direct customer financing, dealers that originate retail installment contracts, dealers who arrange customer financing, holders who acquire a retail installment contract or the outstanding balance of such a contract, securitization entities, and any registered offices. A dealer considering financing options for the sales of motor vehicles should contact the OCCC for specific guidance before initiating or engaging in any regulated activities.

**5.5 Commercial Transactions.** The 82<sup>nd</sup> Texas Legislature enacted House Bill 2559, effective September 01, 2011, which created Chapter 353 of the Texas Finance Code. This new chapter covers general provisions and licensing requirements for commercial vehicle dealers. Commercial vehicles are broadly defined as vehicles that are not used primarily for personal, family, or household use. Chapter 353 removes provisions relating to commercial motor vehicle installment sales from Chapter 348 of the Texas Finance Code. Essentially, the legislative change splits Chapter 348 into a commercially related component and a consumer-related one, moving the commercially related law into a new chapter, and leaving all law applying to consumer transactions in Chapter 348. If a dealer originates consumer and commercial transactions, their current Chapter 348 motor vehicle sales finance license will suffice. A seller who sells only to commercial buyers may opt for a Chapter 353 Commercial Motor Vehicle Sales Finance License. However, if a dealer finances both commercial and for personal, family, household use, then the dealer must have a 348 Motor Vehicle Sales Finance License.

**5.6 Retail Installment Transaction.** A “retail installment transaction” is “a transaction in which a retail buyer purchases a motor vehicle from a retail seller other than principally for the purpose of resale and agrees with the retail seller to

pay part or all of the cash price in one or more deferred installments” (Texas Finance Code § 348.001 (7)).

**5.7 Parties to a Retail Installment Transaction.** A Retail installment transaction involves two parties: a "retail seller" and a "retail buyer".

- a. A “retail seller”, as defined in paragraph 5.4, and is either a “franchised dealer” or a “non-franchised dealer.”
- b. A “retail buyer” is defined as “a person who purchases or agrees to purchase a motor vehicle from a retail seller in a retail installment transaction” (Texas Finance Code § 348.001(5)). (A retail buyer may also be referred to as a debtor in later portions of this document.)

**5.8 Requirement to Utilize a Retail Installment Contract.** Each motor vehicle sale meeting the definition of a “retail installment transaction” must be documented on a retail installment contract. A retail installment contract is defined as "one or more instruments entered into in this state that evidences a retail installment transaction" (Texas Finance Code § 348.001 (6)). **A BUYER’S ORDER IS SPECIFICALLY EXCLUDED** from the definition and is not considered a part of the retail installment contract. Failing to properly use a retail installment contract for each retail installment transaction is a violation of the Texas Finance Code and the Texas Business and Commerce Code. Violations subject the dealer to administrative action.

**5.9 Elements of a Retail Installment Contract.** As previously stated, a retail installment transaction must be documented on a retail installment contract. The material in this section does not provide a complete discussion of retail installment contracts and should not be considered the final determinant on required elements of a contract. This section does provide a general overview and guidance on the required elements of a contract. A dealer should contact the OCCC with specific questions related to retail installment contracts.

- a. **Required Provisions.** A retail installment contract must be in writing, be dated, be signed by both the retail buyer and retail seller, and include all required provisions (with limited exceptions).

Retail Sellers or dealers may wish to utilize contracts obtained either through computer software vendors or commercial printers.

In an attempt to meet federal and state statutory or regulatory requirements, these products will include a broad range of state and federal disclosures and provisions, which may or may not be applicable to the retail seller’s specific transaction. The disclosures and provisions may be provided in text form for inclusion in a contract, or may simply provide space in which the retail seller is to document the required disclosures and provisions. Whether provided the “text” or the “space” to document these requirements, the retail seller is responsible for ensuring all required and mandated disclosures and provisions are appropriately incorporated into the contract.

Specific contract provisions are numerous and are not fully addressed here. A dealer should contact the OCCC for specific guidance on the preparation of retail installment contracts and provisions.

**b. Specific Terms.** Terms related to retail installment contracts have specific meanings as they apply to retail installment transactions. The terms discussed below represent major elements of the retail installment contract, and dealers should become familiar with them.

- 1. Cash Price:** The cash price of a vehicle is the price offered, whether the vehicle is financed or a cash sale, in the "ordinary course of business" to all customers. The cash price does not include finance charges, but may include the price of accessories, services related to the sale, service contracts, taxes, and TT&L fees. It is important to note that an advertised price, in and of itself, does not necessarily establish or equate to the cash price the transaction. (Texas Finance Code § 348.004)
- 2. Itemized Charge:** An amount in a retail installment contract is an itemized charge if the amount is not included in the cash price and is the amount of:
  - (A) fees for registration, certificate of title, and license and any additional registration fees charged by a deputy as authorized by rules adopted under Section 520.0071, Transportation Code;
  - (B) any taxes;
  - (C) fees or charges **prescribed by law** and connected with the sale or **inspection** of the motor vehicle; and
  - (D) charges authorized for **insurance, service contracts, warranties, automobile club memberships, or a debt cancellation agreement** by Finance Code Chapter 348, Subchapter C.

The only authorized itemized charges are those for TT&L, state inspection, VIT, authorized deputy fees, and charges for registered or approved service contracts, insurance, warranties, debt cancellation agreements and auto club memberships.

- 3. Notice to Buyer:** A Notice to Buyer is formal notification required by the federal government and provided to the customer containing specific language related to consumer credit transactions.
- 4. Documentary Fee:** A retail seller may charge a documentary fee to a retail buyer for costs directly related to the handling and processing of documents for the sale of a vehicle or good. A retail seller must be properly licensed (Chapter 348 or Chapter 353 of the Texas Finance Code) or registered (Chapter 345 of the Texas Finance Code) for the type of retail installment transaction for which the retail seller

engages.

(A) **Motor Vehicle:** In part, Chapter 348 of the Texas Finance Code defines a motor vehicle as an automobile, motor home, truck, and towable recreational vehicle. The Finance Commission of Texas has determined that the reasonable amount for a documentary fee is \$150 for a motor vehicle under Chapter 348 of the Texas Finance Code. Retail sellers are not required to file notice for a documentary fee of \$150 or less. Before charging a documentary fee greater than \$150, a retail seller must file notice with the OCCC through their ALECS account (<https://alecs.occ.texas.gov>). Retail sellers with a Chapter 348 motor vehicle sales finance license can file notice through their ALECS account. Retail sellers filing notices for a documentary fee above \$150 are required to provide additional information and documentation to support the reasonableness of the documentary fee (See 7 Texas Administrative Code, Section 84.205). Documentary fee filings that do not adhere to the prescribed instructions are not considered as having been filed by the OCCC.

(B) **Consumer Goods: Motorcycle, Motor-driven Cycle, Moped, All-terrain Vehicle, or Towable Recreational Vehicle:** A retail seller may charge a documentary fee to a retail buyer for costs directly related to handling and processing documents for the sale of motorcycle, motor-driven cycle, moped, all-terrain vehicle, or towable recreational vehicle pursuant to Chapter 345 of the Texas Finance Code. The reasonable maximum amount a retail seller may charge, set by the Finance Commission, is currently \$125. Retail sellers with a Chapter 345 registration are not required to file notice with the OCCC to charge a documentary fee for the sale of goods.

(C) **Towable Recreational Vehicles:** A towable recreational vehicle may be sold on either a motor vehicle retail instalment sales contract or a consumer goods installment sales contract. The documentary fee may not exceed the amount authorized for the type of retail installment contract (e.g. Chapter 348 retail instalment sales contract or Chapter 345 consumer goods installment sales contract.)

(D) **Commercial Transactions:** The documentary fee for a commercial transaction subject to Chapter 353 of the Texas Finance Code may not exceed a reasonable amount as agreed upon by the seller and buyer.

Any retail seller with questions about documentary fees should contact the OCCC or seek appropriate legal advice.

**5. Annual Percentage Rate (APR), Regulation Z Disclosure:** Credit agreements can vary in terms of interest-rate structure. A standardized computation such as the APR provides debtors with a bottom-line number they can easily compare to rates charged by other potential creditors. The APR is the total cost of credit for this transaction on a yearly basis and is applied to the amount financed in the transaction, which may include fees or additional costs associated with the transaction. Disclosure of the APR is a federal requirement as stipulated in the Truth-in-Lending Act. Most dealer management software applications will calculate and incorporate the APR disclosure into the retail installment transaction and contract.

The APR does not represent the contract rate applied to retail installment contracts. These terms are not interchangeable and do not represent the same finance charges or rates.

*Contract Rates* are assessed against the principal balance subject to finance charge for the term of the contract. These rates cannot exceed the daily rate converted to an annualized rate.

**5.10 Contract Completion.** A retail installment contract must contain all essential elements defined by statute as well as any state or federally mandated disclosure statements and notices. A retail buyer should not sign a retail installment contract until the contract has been fully and properly prepared. Examples of acceptable and reviewed contracts can be found on the OCCC website ([www.occc.state.tx.us](http://www.occc.state.tx.us)). Additionally, dealer management software applications generate retail installment contracts that include essential elements and required disclosure notices, based upon data provided and input by the dealer. However, retail sellers are responsible for the accuracy of the dealer management software. Reliance upon the software for accuracy does not mitigate administrative action from OCCC if information or calculations are incorrect.

**Delivery of contract to purchaser.** Dealers must give a retail buyer a copy of the final retail installment contract in a sale. Dealers may give a copy to the buyer in person or by mail to the retail buyer at the address shown on the retail installment contract.

**Buyer's right to rescind contract.** Until a dealer has delivered a copy of the contract to the retail buyer, the retail buyer who has not received delivery of the motor vehicle is entitled to: (1) rescind the contract; (2) receive a refund of all payments made; and (3) receive the return of any trade-in (or the value of the trade-in, if it cannot be returned).

**Amendment of contract.** Dealers and retail buyers may agree to amend the retail installment contract to extend the due date of a scheduled payment or reschedule the unpaid balance on the contract. Sections 348.114 and 348.115 of the Texas Finance Code explain the amounts that may be charged for such amendments. The amendment must be confirmed in writing and signed by the retail buyer. The signed amendment becomes part of the retail installment

contract.

**5.11 Conditional Delivery Agreement.** (also known as “Spot Delivery”): Dealers may attempt to deliver a vehicle to a consumer before the successful placement of financing with an outside source. The Texas Finance Code defines a “conditional delivery agreement” as “a contract between a retail seller and prospective retail buyer under the terms of which the retail seller allows the prospective retail buyer the use and benefit of a motor vehicle for a specified term.” This agreement defines the terms, conditions and obligations of the retail seller and the prospective buyer until resolution of the transaction is attained. It is important to note that the conditional delivery agreement cannot require the prospective buyer to purchase the vehicle; it only defines the terms of use agreement. Once the retail installment contract is consummated, a conditional delivery agreement becomes void. If executed, a compliant conditional delivery agreement may only be in force for the lesser of 15 days or until a retail installment contract is completed. A conditional delivery agreement and the contract cannot exist simultaneously.

**5.12 Debt Cancellation Provisions.** Debt cancellation agreements (DCA) are covered either under § 348.124 or Chapter 348, Subchapter G of the Texas Finance Code. A DCA for total loss or theft of a motor vehicle is a retail installment sales contract term or a contractual arrangement modifying a retail installment sales contract term under which a retail seller or holder agrees to cancel all or part of an obligation of the retail buyer to repay an extension of credit from the retail seller or holder on the occurrence of the total loss or theft of the motor vehicle that is the subject of the retail installment sales contract but does not include an offer to pay a specified amount on the total loss or theft of the motor vehicle. The 82nd Texas Legislature passed a bill, HB 2931, which creates a new statutory framework for certain debt cancellation agreements covered under Chapter 348, Subchapter G of the Texas Finance Code.

The three basic models for DCAs are:

- a. **Total loss or theft of ordinary vehicle that includes insurance coverage** as part of retail buyer’s responsibility to holder. The amount charged for the DCA must be created in good faith, be commercially reasonable, and comply with the requirements of Chapter 348, Subchapter G of the Texas Finance Code. A DCA provided to the OCCC must be approved or denied within 45 days from submission. The submission forms can be found on the OCCC’s website.
- b. **Total loss or theft of ordinary vehicle in which holder bears complete responsibility for cancelling the debt after total loss or theft.** The amount charged for the DCA must be reasonable, and not exceed the rates set by the Finance Commission of Texas. Additionally, the DCA must comply with the requirements of Title 7, § 84.308 of the Texas Administrative Code.
- c. **Total loss or theft of used ordinary vehicle with a cash price of \$15,000 or less in which the retail seller does not assign the retail installment sales**

**contract** to any party other than a related finance company as defined by Texas Tax Code, § 152.0475(a), and in which the retail seller bears complete responsibility for cancelling the debt after total loss or theft whether the retail buyer elects to obtain property insurance. The amount charged for the DCA must be reasonable, and not exceed the rates set by the Finance Commission of Texas. Additionally, the DCA must comply with the requirements of Title 7, §84.308 of the Texas Administrative Code.

**5.13 Maximum Finance Charges.** Finance charges are the cost associated with deferring payment of the vehicle price over a period of time. Maximum finance charges are derived by utilizing the add-on rates stipulated in the Texas Finance Code § 348.104. Texas Finance Code § 348.104 specifies add-on rates for four classes of vehicles and the maximum add-on rate to be used for each class. The class of vehicle is dependent upon the model year designated by the manufacturer of the vehicle.

The add-on method represents a specified amount of finance charge per one hundred dollars per year on the initial principal balance and is used in calculating finance charges for retail installment contracts of *substantially equal monthly payments*. These rates may be converted to equivalent annualized contract rates for the financing of vehicles in installments that are *not monthly or substantially equal*.

**5.14 Methods of Calculating a Finance Charge.** Three allowable methods for calculating a finance charge exist: the add-on method, the scheduled installment earnings method, and the true daily earnings method.

**a. Add-on Method:** The add-on method is a pre-computed method to calculate the finance charge for a regular retail installment contract in which the retail buyer agrees to pay the total of payments, which include both the principal balance of the contract and the finance charges of the contract. The add-on charge is calculated at the inception of the contract and is based upon the principal balance of the contract in which the principal balance of the contract is assumed not to decline over the term of the contract.

A regular contract is one that in which the payments are consecutive, monthly, substantially equal in amount, and the first payment is not more than a month and 15 days from the date the contract is completed. This method of calculating the finance charge can only be used with regular contracts.

**b. Scheduled Installment Earnings Method:** "The scheduled installment earnings method is a method to compute the finance charge by applying a daily rate to the unpaid principal balance subject to a finance charge as if each payment will be made on its scheduled installment date. A payment received before or after the due date does not affect the amount of the scheduled reduction in the unpaid principal balance subject to a finance charge or the amount of the earned finance charge." (Chapter 342, § 342.002, Texas Finance Code)

**c. True Daily Earnings Method:** The true daily earnings method is a method to compute the finance charge by applying a daily rate to the unpaid principal balance (Chapter 342, § 342.002, Texas Finance Code). The daily rate is 1/365th of the equivalent contract rate. The earned finance charge is computed by multiplying the daily rate by the number of days the actual unpaid principal balance is outstanding (Chapter 342, § 342.002, Texas Finance Code).

Payments are credited as of the date received. Therefore, payments received prior to the scheduled installment date result in a greater reduction of the unpaid principal balance than the scheduled reduction, and payments received after the scheduled installment date result in a lower reduction of the unpaid principal balance.

Most dealer management software calculates the finance charge using either the scheduled installment earnings method or the true daily earnings method. The add-on method is utilized by dealers less frequently and does not normally require the use of computer software.

**5.15 Collection of State Sales Tax.** When transferring a motor vehicle title, a retail seller may either disburse the entire amount of the state sales tax in one lump sum or defer the state sales tax under the provisions of Chapter 152 of the Texas Tax Code.

**a. Sales Tax Advanced:** When completing the title work associated with a retail installment transaction, a dealer may remit the entire state sales tax due from the transaction to appropriate county tax assessor-collector on behalf of the retail buyer. This remittance is referred to as a “sales tax advanced” transaction. Since the retail seller advances the sales tax due, this tax amount may be included in the contract amount that is subject to a finance charge, thereby incurring additional finance charges.

**b. Sales Tax Deferred:** When a retail seller defers the sales tax the amount of the state sales tax is distributed over the term of the contract rather than being advanced to the state in a lump sum payment. When the retail buyer remits a scheduled payment, the retail seller will deduct the distributed tax amount from the installment payment and forward it to the state tax office. Under this collection method, the retail seller merely acts as an intermediary to transfer taxes from the retail buyer to the state. As the tax is owed to the state and not the retail seller, the sales tax may not be included in the contract amount that is subject to a finance charge.

**5.16 Timely Transfer of Title.** The Texas Tax Code requires retail sellers utilizing the sales tax advanced collection method to transfer a motor vehicle title into the name of the retail buyer within twenty (20) working days from the date of sale. Retail sellers holding a seller-financed sales tax permit (sales tax deferred) are allowed forty-five (45) calendar days from the date the motor vehicle is delivered to the retail buyer to transfer a motor vehicle title into the name of the retail buyer.

**5.18 Recordkeeping Requirements.** Dealers must demonstrate compliance with the Texas Finance Code and regulatory requirements. In order to demonstrate compliance dealers are required to maintain records for all retail installment transactions. These records must be maintained for a period of four years from the date of the contract, or two years from the date of the final entry made, whichever is later or a different period of time if required by federal law. The list of items that must be kept by a dealer is comprehensive and may be viewed within the motor vehicle rules administered by the OCCC.

## **REPOSSESSIONS**

**5.18 Right of Repossession.** For the purposes of this section, repossession is considered as the physical retaking or regaining of a vehicle. The holder's ability to repossess a vehicle is based upon a contractual and legal right of the holder if the debtor does not meet certain conditions disclosed in a retail installment contract. To repossess a vehicle, the holder must have a valid security interest in that vehicle.

**a. Creating a Security Interest.** A security interest is a legal share in the vehicle that secures payment of the debt, and is created when the buyer signs a security agreement with the creditor. In order for the security interest to be valid all of the following contractual elements must be present: value has been given to the vehicle, the debtor has rights in the collateral, and the buyer has signed a security agreement that provides a description of the vehicle used as collateral that states the buyer has given the creditor a security interest in the vehicle. Repossessing a vehicle without a having a valid security interest might be interpreted as an act of conversion (any unauthorized act that deprives an owner of personal property without his or her consent).

**b. Perfection.** After a valid security interest is created through the use of a retail installment contract, the holder should then "perfect" the security interest. For motor vehicle dealers, perfecting the security agreement is accomplished by transferring the title, showing the buyer as owner of the vehicle and the holder a lien-holder on the vehicle. This transfer of title creates a public record of the holder's security interest and affords legal rights to the holder related to repossession. When the lien is perfected, the holder maintains a superior position if other parties attempt to repossess the vehicle for other outstanding debts. Without public notice or record of the holder's security interest, a third party may be able to claim a superior position to the holder in actions related to any repossession, debt collection, or legal action.

The holder may repossess the vehicle before the lien is perfected if the debtor does not fulfill certain terms of the retail installment contract. A retailer seller or holder who has questions regarding repossession prior to perfection should contact the OCCC, or seek appropriate legal advice.

**c. Grounds for Repossession.** The holder's right to repossess is determined by its security interest in the vehicle and the terms that constitute default as

delineated in the retail installment contract. Generally, contract terms require the buyer to make payments in a timely manner and to keep the fully vehicle insured.

Contracts typically include a general insecurity clause that allows the holder to repossess a vehicle if that holder believes in good faith that the prospect for payment is impaired. Repossession under the general insecurity clause is based upon the facts of the given situation and the reasonable belief by the holder that payment on the transaction is unlikely. Since this measure is based upon articulated facts and circumstances, should the holder believe this remedy to be warranted, the holder should seek legal advice before taking action.

**d. Retrieving the Vehicle.** Repossession simply means the act of regaining possession of the vehicle, whether through physical retaking or the buyer's voluntary surrender of the vehicle. A voluntary surrender occurs when a debtor voluntarily returns the vehicle and willingly turns it over to the holder. An involuntary surrender occurs when the holder takes specific action to physically retrieve the vehicle from the debtor. The law states that a holder with a legal right to repossess the vehicle may only do so without breaching the peace. All rights and restrictions on a holder's ability to physically repossess a vehicle also apply to the holder's employees and any independent contractor engaged by the holder.

**e. Voluntary Surrender.** A debtor may agree to voluntarily surrender the vehicle. The holder may document this repossession on forms that indicates the debtor has:

1. Waived the right to notices, or
2. Accepted the creditor's decision to waive any deficiency balance.

**f. Disposition of Collateral (Vehicle).** After default, a secured party or holder may dispose of secured collateral through several methods. The common methods of disposition are public or private sales of the vehicle or acceptance of the collateral in full satisfaction of the debt (also known as "strict foreclosure").

1. **Public Sales.** A public sale is defined as a sale that is advertised for a specific date and location, is subject to competitive bids, and is open to the general public. The creditor must send a notice of disposition to the debtor and all secured parties. The notice of disposition must specify the date, time, and place of the sale and allow the debtor and any secured parties a reasonable opportunity to attend the sale. A public sale must meet the "commercially reasonable;" standard. For a *public sale*, the standard focuses on how the sale is conducted. For example, if adequate advertisement of the sale existed and if the collateral was sold at a reasonable time and at an accessible location, the "commercial reasonableness" standard has been met.

2. **Private Sales.** A private sale is defined as a sale that is advertised for a

specific date and location, is subject to competitive bids, and is not open to the general public. A private sale requires that a notice of disposition be sent to the debtor and all secured parties informing them of the date after which the vehicle will be sold. A sale conducted at a wholesale auction is considered by the courts to be a private sale since the general public cannot participate. A private sale must meet the “commercially reasonable” standard. In a *private sale*, the standard focuses primarily on the amount of proceeds received for the vehicle. For example, if the vehicle is sold for at or near its current market value, the "commercially reasonableness" standard has been met.

3. **Notification of Disposition.** A notification of disposition of collateral for a public or a private sale sent at least ten (10) days before the earliest time of disposition is considered reasonable. If a creditor has failed to send a debtor a notification of disposition and the debtor has not provided a written relinquishment of his or her rights to notification after default, the court system has historically barred creditors from seeking a deficiency balance after the disposition of the collateral.
4. **Acceptance of Collateral (aka “Strict Foreclosure”).** As an alternative to a public/private sale, the current holder or creditor may use a proposal to accept the collateral in full satisfaction of the obligation. This method of disposition may only be used if less than 60 percent of the cash price has been paid *unless* the debtor has signed a specific waiver regarding the equity on the vehicle. The holder must provide both the debtor and secured parties written notice of the intent to retain the collateral in full satisfaction of the debt. There is no specified time period in which this notice is to be sent, however statute provides a period of time in which the debtor or secured parties may submit objections to the holder’s intent.

From the date the notice is sent by the creditor, the debtor will have twenty (20) days in which to submit a written objection to the holder’s intent to retain the collateral. If the holder receives a written objection within the twenty-day (20 day) period, a public or private sale must be completed.

If the holder does not receive a written objection by the end of the twentieth (20th) day, the holder may retain the collateral in satisfaction of the debtor’s obligation on the twenty-first (21st) day. By retaining the vehicle through this method, the holder forfeits its rights to seek a deficiency balance from the debtor. Additionally, while the holder may report the repossession to credit reporting agencies, it must report the outstanding balance as a zero balance.

- g. **Disposition of nonattached personal property.** In a contract allowing the dealer to retain or dispose of personal property left in a vehicle that is subject to repossession, the dealer is required to send notice to the retail buyer that the holder has acquired the personal property. The notice must be delivered to the

buyer's address in the holder's record by the 15<sup>th</sup> day and provide information allowing the buyer to identify and claim the property until the 31<sup>st</sup> day after the notice was delivered. If the buyer does not claim the property within the timeframe, the seller may retain the property subject to any legal rights of the retail buyer or dispose of the property in a reasonable manner and distribute any proceeds of the disposition according to applicable law.

**h. Calculation of Surplus or Deficiency.** Following a public or private sale of the collateral, a creditor may be required to provide the debtor with a calculation of a surplus or deficiency balance. The calculation is needed when a debtor requests an accounting or reconciliation of the balance, a creditor seeks a deficiency balance payment, or the creditor forwards surplus sales proceeds from the sale of collateral to the debtor.

## 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 Motor Vehicles' Vehicle Titles & Registration Division (VTR) at (888) 368-4689, Option 2, or to the local County Tax Assessor Collector. Additionally, you may refer to the TxDMV Motor Vehicle Title Manual and the TxDMV Motor Vehicle Registration Manual. Both manuals are located on our website at [www.TxDmv.gov](http://www.TxDmv.gov). Information regarding Salvage Dealer Licensing may be obtained by contacting the Texas Department of Motor Vehicles Salvage Licensing Unit at (512) 465-3000, Option 3. Information regarding the issuance of salvage documents may be obtained by contacting the Consumer Relations Divisions at (888) 368-4689. Copies of the forms mentioned here may be obtained from the County Tax Assessor Collector's offices, Regional Service Centers or from TxDMV's website ([www.TxDmv.gov](http://www.TxDmv.gov)). To see a list of motor vehicle Title and Registration forms, visit: <http://www.TxDmv.gov/txdmv-forms>*

*For a list of TxDMV Regional Service Centers, visit: <http://www.TxDmv.gov/contact-us>*

**61 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. Under limited circumstances a transaction may be completed by making appropriate use of the *Power of Attorney for Transfer of Ownership to a Motor Vehicle* (Form VTR-271-A). A copy of the front and back of the title must be kept by the seller to meet record retention requirements. Any other documents, such as registration receipts, should also be provided to the purchasing dealer.

**62 Dealer Must Transfer, Not Customer.** When selling a motor vehicle to a retail purchaser as a dealer, state law requires you to complete all documents necessary to title and register the vehicle in the consumer's name. Additionally, you must file the paperwork with the appropriate county tax assessor-collector's office within 30 calendar days of the date of sale. The seller of a motor vehicle sold in a seller-financed sale shall apply for Texas title and registration for the motor vehicle in the name of the purchaser with the appropriate county tax assessor-collector's office not later than the 45th day after the date the motor vehicle is sold to the purchaser. If a retail purchaser goes to the tax assessor-collector's office to transfer the title of a motor vehicle purchased from a dealer, the office will notify TxDMV and a complaint will be filed against the dealer.

The purchaser, not the dealer, may select from the following three counties in which their vehicle will be initially titled and registered:

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

The purchaser must designate which one of the three county locations their vehicle is to be titled and registered. The dealer is required to have the buyer complete a *County of Title Issuance* (Form VTR-136) and keep this form in the sales file. The form must be completed by the purchaser on all retail sales when the vehicle is being titled in Texas. The title transfer documents and fees must be sent to the county entered by the purchaser on the *County of Title Issuance* (Form VTR-136). This form cannot be pre-printed for the applicant's signature. The form must be kept by the dealer with all other documents. It is not submitted to the county tax assessor-collector's office.

**63 Exception to Dealer Transfers.** By law, dealers are required to submit the *Application for Texas Title and/or Registration* (Form 130-U) and supporting documents; however, there are exceptions where the dealer may give the paperwork to the purchaser to handle. Those exceptions include the sale of:

- vehicles declared a total loss;
- salvage vehicles that have not been rebuilt;
- vehicles purchased by out of state or foreign residents leaving the state immediately;
- vehicles sold to out of state or foreign dealers;
- trailers and trucks over 11,000 pound gross weight; and
- trailers weighing 4,000 lbs. or less gross weight.

**64 Taking Assignment on Titles.** The dealership's name and address must be entered as the purchaser on the back of the title (or on the dealer's reassignment form, if taking reassignment) above the line marked "Name of Purchaser" when a dealer receives a vehicle in trade or purchases a vehicle from an auction, another dealer, or a consumer. When the seller signs the back of the title (or dealer's reassignment form, if taking reassignment from another license dealer) and the purchasing dealer's name is not entered is known as an "open title". *Dealers are expressly forbidden to hold open titles* under Texas Administrative Rule, Section 215.141(b)(13).

**65 Odometer Statements.** Out of state titles or any other ownership evidence not having a proper odometer disclosure statement require a separate odometer disclosure statement provided the motor vehicle is not exempt from disclosure requirements.

**66 Applying for Title.** Two items are needed to apply for a Texas title:

- **Ownership Evidence** – this can be a title if transferring a title for a used motor vehicle. Franchised dealers selling new vehicles will have a MCO.
- *Application for Texas Title and/or Registration (Form 130-U).*

**67 Ownership Evidence.** Make sure 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 correct year, model, and body style as stated on the title. Verify the seller's name appears in the appropriate place on the title and matches the photo identification presented. Make sure the previous owner, if applicable, matches the sales record.

- a. Determine the type of vehicle.** If the motor vehicle is subject to the Federal Truth in Mileage Act, then the odometer acknowledgement on the assignment must be completed.

Vehicles exempt from the Federal Truth in Mileage Act include:

- A motor vehicle having a gross vehicle weight of more than 16,000 pounds;
- Vehicles that are not self-propelled (ex: trailers and semitrailers);
- Vehicles ten model years old or older (calculated by subtracting ten from the current calendar year);
- Vehicles sold directly by a manufacturer to an agency of the US government;
- New motor vehicles prior to the first retail sale (An odometer statement is required when the vehicle is sold to the first retail purchaser, even on a MCO. The statement is not required when the vehicle is transferred between franchise dealers on a MCO.); and
- Off-highway use only vehicles.

- b. Other forms.** Make sure any reassignment document including the *Dealer's Reassignment of Title for a Motor Vehicle (VTR-41-A)* or the *Power of Attorney for Transfer of Ownership to a Motor Vehicle (VTR-271-A)* indicates the same information that is on the title. If there is an actual purchaser and seller, complete the odometer statement on the title assignment. If there is not an actual purchaser and seller, record odometer information directly on the *Application for Texas Title and/or Registration (Form 130-U)*. An original Vehicle Inspection Report (VIR) is required if the vehicle was last titled out of state. A VIR can be obtained from any Texas Department of Public Safety vehicle

inspection location. Any facility that offers an annual vehicle safety inspection can provide a VIR.

A licensed Texas dealer may use the *Dealer's Reassignment of Title for a Motor Vehicle* (Form VTR-41-A) to assign a motor vehicle to a transferee even when all of the reassignments on the back of the title are not complete, including Texas Certificates of Title.

- c. **Secure power of attorney (POA) form.** There are only two conditions when the use of the *Power of Attorney for Transfer of Ownership to a Motor Vehicle* (Form VTR-271-A) is appropriate:
- when the title is held by the lienholder, and/or;
  - when the title is lost.
- d. **Liens.** If a lien is recorded on the surrendered evidence of ownership, a release of lien is required, unless the 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 accompanies a title recording a lien, the release of lien date must be the same as the date the secure POA was executed or after. Make sure the date of the release of lien is included in the release.

If the motor vehicle was issued an electronic title with a lien, notify the lienholder to request a paper title and one will be mailed to you when you pay off the lien.

**68 Foreign/Imported Vehicles.** State law requires an owner to obtain a Texas title in their name prior to transferring ownership of a motor vehicle. If an individual wants to sell a motor vehicle to your dealership, you must require a Texas or out of state ownership document. You cannot accept a motor vehicle on a foreign ownership document. If you purchase a vehicle in a foreign country, you must obtain a Texas or out of state title in your name prior to transferring the vehicle.

**69 Title Application.** The *Application for Texas Title and/or Registration* (Form 130-U) should be filled out carefully and completely before filing at the county tax assessor collector's office. Be sure to make a copy of the completed application for your records. It is important that the:

- Vehicle description is correct and complete;
- Odometer reading is accurate;
- Applicant information is complete;
- Lienholder information, if applicable, is current, and the lien date is included. If the lienholder requests an electronic title, be sure to include the Certified Lienholder's eleven digit ID Number and mark the "Electronic Title Request" box;
- Sales tax statement has been calculated properly; and

- Both the purchaser and seller have signed the application.

**The Most Common Reasons Title Transactions are Rejected:**

1. **Vehicle Information** (year, make, and/or VIN incorrect)
2. **Owner Information** (owner's name and address incorrect, signatures omitted)
3. **Liens** (omitted, not carried forward, missing release of lien)
4. **Odometer** (brand and readings incorrect)
5. **Weight** (carrying capacity and/or empty weight incorrect)
6. **Title Record** (later title record has been issued)
7. **Vehicle Transfer** (incorrect vehicle transferred/switched ownership evidence)
8. **Surrendered Evidence** (mismatched or missing evidence)
9. **Bonded Title** (incomplete information, such as signature, date, etc.)
10. **Title Remarks** (omitted, not carried forward, i.e., Rebuilt Salvage, Flood, Manufacturer's Buyback)

**610 The Title Application Receipt.** After you file the *Application for Texas Title and/or Registration* (Form 130-U), you will receive a *Tax Collector's Receipt for Title Application/Registration/ Motor Vehicle Tax* (Form VTR-500-RTS) from the county tax assessor-collector's office. This form is an important document that proves you applied for the title and paid the proper fees and taxes. Many financial institutions require a copy of the *Tax Collector's Receipt for Title Application/Registration/ Motor Vehicle Tax* (Form VTR-500-RTS) before they will release funds. Make sure you retain 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 COUNTY TAX ASSESSOR-COLLECTOR'S OFFICE BECAUSE WHATEVER APPEARS ON THE RECEIPT IS WHAT WILL BE PRINTED ON THE TITLE. ANY ERRORS MADE BY THE COUNTY, ESPECIALLY OMISSION OF LIEN INFORMATION, MUST BE CAUGHT WITHIN 5 DAYS OF PROCESSING IN ORDER TO PROCESS A CORRECTION BEFORE THE TITLE ISSUES. ERRORS MADE BY THE DEALER ON THE APPLICATION FOR TEXAS TITLE THAT RESULT IN ERRORS MADE BY THE COUNTY MUST BE CAUGHT WITHIN 48 HOURS; OTHERWISE, A COURT ORDER MAY BE REQUIRED TO STOP TITLE ISSUANCE

Titles are issued by the TxDMV seven (7) calendar days from the date of processing at the county tax assessor-collector's office. If an electronic lien title is requested, a paper title is not issued but the lienholder is notified of the lien electronically.

**611 Vehicle Registration.** When a vehicle is traded in or purchased by a dealership, the registration is invalidated. Registration is non-transferable when the vehicle is sold by a Texas dealer. Full registration fees will be due at the time the transaction is filed, unless the registration has a fixed expiration, which will be prorated.

For the exact amount of the registration fee, contact the county tax assessor-collector's office where the application will be filed.

**612 Title and Registration in Another State.** Occasionally, a customer will request the motor vehicle be titled and registered in another state. Complete the *Texas Motor Vehicle Sales Tax Exemption Certificate* (Form 14-312) for vehicles taken out of state. Retain the *Texas Motor Vehicle Sales Tax Exemption Certificate* (Form 14-312) with the sales records.

**613 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 Texas title (such as an assignment missing or incomplete), three options exist to transfer title.

- a. **Tax Collector Hearing.** This can be initiated only at the county tax assessor-collector's office; however, the county tax assessor-collector has discretion to send a customer to a TxDMV Regional Service Center to review the documentation first. Upon receiving a request for a hearing, the county tax assessor-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 county tax assessor-collector sets the date for a hearing, they shall notify all parties that might appear to have an interest in the vehicle in question, including the owner(s) and lienholder(s) of record. After hearing the evidence presented by all parties, the county tax assessor-collector will decide whether title should be issued to the applicant. TxDMV abides by this decision. All evidence presented at the hearing is attached to the order and submitted with the title application if the county tax assessor-collector has granted title.
- b. **Bonded Title Process.** This must be initiated at a TxDMV Regional Service Center. This process provides an alternative to a tax assessor-collector's hearing. The *Bonded Title Application or Tax Collector Hearing Statement of Fact* (Form VTR-130-SOF) 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 TxDMV Regional Service Center outlining the proper procedure with blind copies sent to the owner and lienholder of record and any other interested parties. The letter is valid for one year. A Certificate of Title Surety Bond is purchased by the applicant and submitted to the county tax assessor-collector's office along with the letter issued by the TxDMV and any other documentation within 30 days of the effective date of the bond. 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 a County or District Court in an effort to obtain a court order directing TxDMV to issue title. Court orders from a justice of the peace court are not sufficient in this circumstance.

**614 When Title is Lost, Getting a Certified Copy of the Title.** If a dealer takes a trade and the consumer does not have a Texas Certificate of 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. TxDMV may issue a certified copy of title *only* to the recorded owner(s) or lienholder(s), or a verified agent of the owner(s) or lienholder(s). An application presented by anyone other than those listed will be rejected. An original release of lien is required to issue a title if a lien is recorded on the record if the application is not made by the lienholder or a verified agent of the lienholder.

The recorded owner(s) or lienholder(s) may obtain a certified copy of title only upon presentation of a properly executed *Application for a Certified Copy of Title* (Form VTR-34) and valid government issued photo identification.

In case of joint ownership, all owners must provide valid government issued photo identification.

A verified agent of the owner(s) or lienholder(s) may obtain a certified copy of title only upon presentation of a properly executed *Application for a Certified Copy of Title* (Form VTR-34), properly completed *Power of Attorney for Transfer of Ownership to a Motor Vehicle* (Form VTR-271-A) or *Limited Power of Attorney for Eligible Motor Vehicle Transactions* (Form VTR-271), and valid government issued photo identification, and verifiable proof 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 letterhead. If a POA is used, the photo identification of the person appointing the POA is also required.

Direct any questions regarding certified copy of title issuance to a TxDMV Regional Service Center.

**615 Forging Title Documents is a Felony.** Under Transportation Code § 501.155, 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 government document. It is a third degree felony to sign customers' names to any document, without the proper power of attorney. Obtain signatures while the customer is in the office, or have the customer come back in the office if additional documentation requires a signature and the appropriate power of attorney was not signed.

**616 Standard Presumptive Value.** If an individual requests a dealer to perform a certified appraisal on a motor vehicle, the dealer must charge a fee. The Texas Comptroller's office sets the fees for such appraisals by rule. A dealer may charge the following:

- \$100 to \$300 for most motor vehicles
- \$40 to \$300 for motorcycles
- \$100 to \$500 for a house trailer, travel trailer or a motor home.

A *Used Motor Vehicle Certified Appraisal Form* (Form 14-128) is available on the Comptroller of Public Accounts website at:  
<http://www.window.state.tx.us/taxinfo/taxforms/14-forms.html>

**617 How to Get More Information on Titling and Registration.** The Vehicle Titles and Registration Division publishes one manual designated to titling and one to registration of vehicles. Both manuals include instructions on how to title or register a vehicle and are updated quarterly. These manuals are located on the department's website or at [www.TxDMV.gov/title-manual](http://www.TxDMV.gov/title-manual) and [www.TxDMV.gov/registration-manual](http://www.TxDMV.gov/registration-manual). Forms can be downloaded from the TxDMV web site at [www.TxDMV.gov/txdmv-forms](http://www.TxDMV.gov/txdmv-forms).

**618 Salvage Titled Vehicles, Texas or Out of State.** Salvage ownership documents, including Texas Salvage Certificates issued prior to September 1, 2003, may be assigned or reassigned as follows:

- a. If the vehicle has not been rebuilt, a salvage ownership document may be assigned or reassigned by anyone, including an individual, except for insurance companies.
- b. If the vehicle has been rebuilt, the owner of the rebuilt salvage vehicle (including licensed salvage vehicle dealers) must apply for a Certificate of Title branded "Rebuilt Salvage" in their name prior to resale.
- c. A licensed motor vehicle dealer may not reassign a salvage ownership document if the vehicle has been rebuilt. A motor vehicle dealer license does not authorize a motor vehicle dealer to deal in salvage vehicles; therefore, a motor vehicle dealer that repairs or rebuilds a salvage vehicle will be required to obtain a Certificate of Title branded "Rebuilt Salvage" in the dealer's name prior to retailing the motor vehicle.
- d. All Assignments Complete: If the vehicle has not been rebuilt, and all assignments on the back of a salvage ownership document have been completed, and further assignments are needed, the last person to whom the document is assigned must apply for a Nonrepairable or Salvage Vehicle Title in their name unless they are a licensed salvage vehicle dealer. A licensed salvage vehicle dealer may transfer the vehicle by using a *Dealer's Reassignment of Title for a Motor Vehicle* (Form VTR-41-A).

**6.19 Required Evidence When Surrendering a Salvage Title.**

- a. *Application for Texas Title and/or Registration* (Form 130-U).
- b. Evidence of ownership of a rebuilt salvage motor vehicle, properly assigned to the applicant.

The documents may include:

- Texas Salvage Certificate;
- Texas Salvage Certificate of Title issued prior to September 1, 2003;
- Texas Salvage Vehicle Title;
- Texas Nonrepairable Certificate of Title issued prior to September 1, 2003; or
- Comparable salvage certificate or salvage certificate of title issued by another jurisdiction.

The documents may not include:

- Texas Nonrepairable Vehicle Title issued on or after September 1, 2003;
- Out-of-state ownership document that indicates that the motor vehicle is:
  - nonrepairable;
  - junked, for parts or dismantling only; or
  - the motor vehicle may not be rebuilt in the jurisdiction that issued the ownership document.
- Certificate of Authority (COA) to Dispose of a Motor Vehicle

**c. Form VTR-61 must include:**

- year, make, model, VIN, and body style;
- an explanation of the repairs or alterations made to the motor vehicle.



# Application for Texas Title and/or Registration

## General Instructions

**With a few exceptions, you are entitled to be informed about the information the department collects about you. The Texas Government Code entitles you to receive and review the information and to request that the department correct any information about you that is deemed incorrect. Please contact the Texas Department of Motor Vehicles at 1-888-368-4689 or 512-465-3000 for details.**

This form must be completed and submitted to your county tax assessor-collector accompanied by any required application fee, supporting documents, registration fee, if applicable, and any motor vehicle tax due. An application form may be reproduced or faxed. A completed form must contain the original signature of the buyer. The seller's signature may be reproduced or faxed. All title applications must include one of the government-issued photo IDs listed in Box 15. Detailed instructions for completing this form are located in the *Detailed Instructions for Application for Texas Title and/or Registration* (Form VTR-130-UIF).

### AVAILABLE HELP

- For assistance in completing this form, contact your county tax assessor-collector.
- For information about motor vehicle sales and use tax or emission fees, contact the Texas Comptroller of Public Accounts, Tax Assistance Section, at 1-800-252-1382 toll free nationwide or call 512-463-4600.
- For title or registration information, contact your county tax assessor-collector or the Texas Department of Motor Vehicles at 1-888-368-4689 or 512-465-3000.

## Additional Details

**Title Only:** License plates and registration insignia previously issued for this motor vehicle must be surrendered in accordance with Transportation Code §501.0275, if applicable, unless this vehicle displays a license plate under an applicable status of forces agreement. The following types of vehicles are not eligible for Title Only: construction machinery (unconventional vehicles), water well drilling units, machinery used exclusively for drilling water wells, construction machinery not designed to transport persons or property, implements of husbandry, farm equipment (including combines), golf carts, slow moving vehicles, or any vehicle with a suspended or revoked title.

**Registration Purposes Only:** Do not surrender an original out of state title with this application. A Texas title will NOT be issued for a vehicle applying for Registration Purposes Only. The receipt issued upon filing this application will serve as the registration receipt and proof of application for Registration Purposes Only.

- **Foreign Vehicles:** Foreign vehicles applying for Registration Purposes Only must attach DOT Form HS-7 or U.S. Customs Form CF-7501 to indicate the vehicle is: 1) over 25 years old, or 2) complies with Federal Motor Vehicle Safety Standards, or 3) is being imported in the United States for a temporary period by a nonresident or a member of the armed forces of a foreign country on assignment in the U.S., and does not conform to the Federal Motor Vehicle Standards and cannot be sold in the U.S.

**Nontitle Registration:** Certain trailers, farm equipment, construction machinery, oil well servicing machinery, water well drilling units, etc. are either exempt from, or not eligible for title, but are eligible for, or required to, obtain registration or a specialty plate in order to operate on the highway. Applicants should mark this box only when applicable. **Note:** A lien cannot be recorded on this type of application.

**Out of State Vehicles:** Self-certification of the Vehicle Identification Number (VIN) is allowed if a VIN verification form issued by a Texas state-approved safety inspection station is not included with the submission of this application if the applicant certifies the vehicle is located out of state. See *Vehicle Identification Number Certification* (Form VTR-270) for more information.

## Notice

- The sales and use tax must be paid to the county tax assessor-collector within 30 days from the date of purchase or entry of the vehicle into Texas.
- A \$2.50 transfer fee is paid to transfer current registration to the new owner in addition to the title application fee and other applicable fees. If the registration is not current, full registration fees are due unless applying for Title Only.
- A 6.25 percent motor vehicle sales and use tax is imposed on the sales price (less trade-in allowance) of motor vehicles for use in Texas or a motor vehicle purchased outside of the state and later brought into this state by a Texas resident.
- Standard Presumptive Value (SPV) applies to private-party sales of most used motor vehicles purchased or brought into Texas. The tax is computed on the greater of the sales price or 80 percent of the SPV on the day of title application.
- New Texas residents are subject to a \$90 use tax on a vehicle brought into this state that was previously registered to the new resident in another state or foreign country. This is in lieu of the 6.25 percent use tax imposed on a Texas resident.
- A \$10 gift tax is due when a person receives a motor vehicle as a gift from an immediate family member, guardian, or a decedent's estate. A vehicle donated to, or given by, a non-profit service organization qualifying under IRC 501(c)(3) is also taxed as a gift. Both donor and recipient must sign the Comptroller's joint affidavit, *Affidavit of Motor Vehicle Gift Transfer* (Form 14-317). The affidavit and the title application must be submitted in person by either the donor or recipient.
- A transaction in which a motor vehicle is transferred to another person without payment of consideration and one that does not qualify as a gift described above is a sale and will be subject to tax calculated on the vehicle's standard presumptive value.
- A late penalty equal to 5 percent of the tax will be charged if the tax or surcharge is paid from 1 to 30 calendar days late. If more than 30 calendar days late, the penalty will be 10 percent of the tax; minimum penalty is \$1.
- In addition to the late tax payment penalty, Texas Transportation Code provides for an escalating delinquent transfer penalty of up to \$250 for failure to apply for title within 30 days from the date of title assignment. Submit this application along with proper evidence of ownership and appropriate valid proof of financial responsibility such as a liability insurance card or policy.
- All new residents applying for a Texas title and registration for a motor vehicle must file at the county tax assessor-collector of the county in Texas where the applicant resides within 30 days of establishing residency. Texas law requires that all vehicles previously registered and titled or registered in another state or country be inspected for safety and the vehicle identification number verified before such vehicles may be registered in Texas. These inspections must be made by a state appointed safety inspection station that will complete a Texas Vehicle Inspection Report. This form must be submitted to the county tax assessor-collector with your application for registration and Texas title.



Texas Department  
of Motor Vehicles

## Application for a Certified Copy of Title

### Information

This form is used to apply for a Certified Copy of Texas Title for a motor vehicle if the original Texas Certificate of Title is lost, stolen, or mutilated. A Certified Copy of Texas Title replaces the original Texas Certificate of Title and any previously issued Certified Copy of Texas Title. *The applicant (person signing this application) must be the owner or lienholder on the department's motor vehicle record, or an authorized agent of the owner/lienholder.* Submit this completed application and all required documents in person or by mail to a Texas Department of Motor Vehicles (TxDMV) Regional Service Center (see page 2 for locations).

**Note:** All original documents (or certified copies of documents) submitted to a TxDMV Regional Service Center will be returned.

### IMPORTANT: Application Checklist

Check each box to acknowledge the following requirements are met:

- The fee is \$2.00 by mail or \$5.45 in person.**  
Mailed fees must be in the form of a personal check, cashier's check, or money order payable to the TxDMV. **Do not mail cash.** Credit/debit cards and temporary checks are not accepted. **Fees are non-refundable.**
- Copy of acceptable government issued photo ID for each recorded owner and/or agent is required.**  
Refer to "Applicant Identification Requirements" on page 2 for requirements. All IDs must be valid and expired not more than 12 months.  
**Note:** Photocopies, faxes, or scans are acceptable for photo identification (ID), employee ID, business cards, and powers of attorney.
- Original signature(s) are required on this application (black or blue ink).**  
If the vehicle is jointly owned, original signatures are required of each owner or a power of attorney is required for each owner.
- Original, signed release of lien is required if a lien is shown on the department's record.**  
An original, signed release of lien must be obtained from the lienholder(s) when the current owner named on the vehicle record financed the vehicle and when a lender(s) remains listed as a lienholder on the department's vehicle record. This original, signed release of lien must be submitted with the application even if the vehicle loan has been paid in full. The department cannot automatically remove a lien from a vehicle record. Refer to the "Lien on Title Record" section on page 2. **Note:** Photocopies, scans, faxes, and emails are not acceptable.
- An acceptable form of signature authority is required if applying on behalf of an entity or using a power of attorney.**  
Refer to "Entity Applicant" or "Using Power(s) of Attorney" in the "Applicant Identification Requirements" section on page 2 for requirements.

### Vehicle Information

Vehicle Identification Number	Year	Make	Body Style	Model
Title/Document Number (if unknown, leave blank)	Texas License Plate Number (if unknown, leave blank)			

### Recipient Information – To whom the certified copy will be given or mailed

First Name (or Entity Name)	Middle Name	Last Name	Suffix (if any)
Mailing Address	City	State	Zip
Email	Phone Number		

### Government Issued Identification – Complete (as needed) and provide photocopy of each ID (see page 2)

Type: <input type="checkbox"/> U.S. Driver License/ID Card <input type="checkbox"/> Passport <input type="checkbox"/> Other	Issued By (state or country)	ID Number	Expiration Date
Type: <input type="checkbox"/> U.S. Driver License/ID Card <input type="checkbox"/> Passport <input type="checkbox"/> Other	Issued By (state or country)	ID Number	Expiration Date
Type: <input type="checkbox"/> U.S. Driver License/ID Card <input type="checkbox"/> Passport <input type="checkbox"/> Other	Issued By (state or country)	ID Number	Expiration Date
Type: <input type="checkbox"/> U.S. Driver License/ID Card <input type="checkbox"/> Passport <input type="checkbox"/> Other	Issued By (state or country)	ID Number	Expiration Date

### Certification – State law makes falsifying information a third degree felony

I, the undersigned, hereby certify I am the recorded owner, lienholder, or verified agent of the owner or lienholder of the vehicle described above, and the original title issued for the vehicle has been lost, destroyed, or mutilated.

Signature of Applicant/Owner	Printed Name (Same as Signature)	Date
Signature of Additional Applicant(s)/Owner(s) (if any)	Printed Name (Same as Signature)	Date

## Application for a Certified Copy of Title

### IMPORTANT: Applicant Identification Requirements

Complete the "Government Issued Identification" section on page 1 with the applicable information for each ID required below:

#### Individual Applicant(s)

If a vehicle is titled in the name of an individual, the individual must sign this application and provide a copy of their government issued photo ID.

**MULTIPLE INDIVIDUALS:** If a vehicle is titled in the name of multiple individuals, each individual must sign this form, and each must provide a copy of their government issued photo ID.

#### Entity Applicant

If a vehicle is titled in the name of an entity, an agent representing the entity must sign the application.

**Additional Requirements:** Agent must provide letter of signature authority on letterhead, printed business card (containing the agent's name), or employee ID connecting the signing agent to the entity (may be copies) and a copy of the agent's government issued photo ID.

#### Lienholder Applicant

If the vehicle has a recorded lien, the lienholder (or an agent of the lienholder) may apply for a Certified Copy of Texas Title and sign the application.

**Additional Requirements:** If the lienholder is an individual, a copy of the individual's current government issued photo ID must be provided. If the lienholder is an entity, letter of signature authority on letterhead, printed business card (containing the agent's name), or employee ID connecting the signing agent to the entity (may be copies) and a copy of the agent's government issued photo ID must be provided.

#### Using Power(s) of Attorney

If a power of attorney (POA) is used, the above requirements apply for both the individual or entity granting the POA and the individual or entity being granted POA. For an individual (whether granting or being granted the POA), a copy of that individual's government issued photo ID is required. For an entity (whether granting or being granted the POA), both a copy of the agent's government issued photo ID and a letter of signature authority on letterhead, printed business card (with the agent's name), or employee ID connecting the signing agent to the entity (may be copies) are required.

#### Notes:

- If the recipient is not the applicant but the recipient will be obtaining the Certified Copy of Title in-person, the recipient's acceptable government issued photo ID is also required at the time they are receiving the Certified Copy of Title.
- Court documents, such as divorce decrees and court orders, must be either original documents or certified copies. All original documents (or certified copies of documents) will be returned.

### Acceptable Government Issued Photo Identification

The following are the only acceptable forms of government issued photo ID for an Application for Certified Copy of Texas Title:

- Driver license or ID issued by a state or territory of the U.S.,
- Texas handgun license,
- U.S. or foreign passport,
- U.S. military ID,
- North Atlantic Treaty Organization ID,
- ID issued under a Status of Forces Agreement,
- U.S. Department of Homeland Security ID,
- U.S. Department of State ID,
- U.S. Citizenship and Immigration Services ID document.

**The department will accept an identification for up to 12 months after expiration.**

**If an individual other than the owner(s) is receiving the certified copy of title in-person, a valid photo ID of the recipient must be presented and written on page 1 of this form.**

### Lien on Title Record

If the current owner(s) of the motor vehicle had a lien (loan or financing) of any kind on the motor vehicle, even if it has been paid off, the department's records may still show the lien. Please contact the lienholder and request an original, signed release of lien.

An original, signed release of lien on the lienholder's original letterhead or on the *Prescribed Form for Release of Lien* (Form VTR-266) is required if there is a lien shown on the department's record. **A photocopy, scan, fax, or email is not acceptable.** If the release of lien is on the Form VTR-266, the lienholder's agent signing the Form VTR-266 must attach a letter of signature authority on letterhead, printed business card (with the agent's name), or employee ID that connects the agent to the entity (copies acceptable).

### Application by Mail – \$2.00 Fee

Mail this application, \$2.00 fee, copy of ID(s), and any other documentation to:

**Texas Department of Motor Vehicles  
1601-A Southwest Parkway  
Wichita Falls, TX 76302**

- Please allow at least 15 days to receive your Certified Copy of Title when mailing an application.
- The department is unable to provide a status of an application. Application tracking is unavailable.
- Original documentation submitted with the application will be returned to the recipient listed on page 1.

### Application in Person – \$5.45 Fee

*\*Applications should not be mailed to the locations below, except Wichita Falls\**

<b>ABILENE</b> – 4210 N. Clack St., Abilene, TX 79601	<b>HOUSTON</b> – 2110 East Governors Cir., Houston, TX 77092
<b>AMARILLO</b> – 5715 Canyon Dr., Building H, Amarillo, TX 79110	<b>LONGVIEW</b> – 4549 W. Loop 281, Longview, TX 75604
<b>AUSTIN</b> – 1001 E. Parmer Ln., Ste. A, Austin, TX 78753	<b>LUBBOCK</b> – 135 Slaton Rd., Lubbock, TX 79404
<b>BEAUMONT</b> – 8550 Eastex Freeway, Beaumont, TX 77708	<b>ODESSA</b> – 3901 East Highway 80, Odessa, TX 79761
<b>CORPUS CHRISTI</b> – 602 N. Staples St., Ste. 130, Corpus Christi, TX 78401	<b>PHARR</b> – 600 West Expressway 83, Pharr, TX 78577
<b>DALLAS</b> – 1925 E. Beltline Rd., Ste. 100, Carrollton, TX 75006	<b>SAN ANTONIO</b> – 15150 Nacogdoches Rd., Ste. 100, San Antonio, TX 78247
<b>EL PASO</b> – 1227 Lee Trevino, Ste. 100, El Paso, TX 79907	<b>WACO</b> – 2203 Austin Ave., Waco, TX 76701
<b>FORT WORTH</b> – 2425 Gravel Dr., Fort Worth, TX 76118	<b>WICHITA FALLS</b> – 1601-A Southwest Pkwy., Wichita Falls, TX 76302



## County of Title Issuance

### Instructions for Motor Vehicle Dealers

Transportation Code, §501.0234, requires licensed motor vehicle dealers to apply for title and initial registration for a motor vehicle in the county as directed by the purchaser(s). A dealer may not pre-populate a county selection on this form for the purchaser(s).

Do not submit this form with the title transaction. The original form should be retained with the dealer's vehicle records.

This form is not required if the purchaser(s) will be immediately removing the vehicle from Texas.

### Instructions for Purchasers

Vehicle purchasers select the Texas county where a licensed motor vehicle dealer files a title transaction to transfer title and/or initially register the purchased vehicle. The county selected will receive a portion of the sales tax, title fees, initial registration fees, and other applicable state and local fees. Subsequent registration renewal notices will automatically be mailed to the purchaser from the purchaser's county of residence if it is different from the selection on this form.

Purchaser(s) choose where their transaction is filed from one of the below:

- County of residence of the purchaser(s)
- County where the motor vehicle is purchased
- County where the motor vehicle is encumbered (by the lienholder)

If the county selection on this form has been pre-populated by the dealer, please visit [www.TxDMV.gov](http://www.TxDMV.gov), and select the "Motorist" tab to file a complaint against the dealer.

**Note:** If you sold your vehicle, or traded your vehicle into a dealership, you can also protect yourself by submitting a Vehicle Transfer Notification online at [www.TxDMV.gov](http://www.TxDMV.gov).

### Vehicle Information

Vehicle Identification Number	Year	Make	Body Style	Model

### County Selection – This field should **not** be pre-populated by the motor vehicle dealer

File my transaction in the following Texas county:

### Acknowledgement

I acknowledge that I was provided with this form and have voluntarily selected the county listed above in which to have the title application and initial registration, if applicable, filed by the dealer.

Signature of Purchaser	Printed Name (Same as Signature)	Date
Signature of Additional Purchaser (if any)	Printed Name (Same as Signature)	Date



Texas Department  
of Motor Vehicles

## Texas Motor Vehicle Transfer Notification

### Information and Instructions

- Submit this form within **30 days of the vehicle's date of transfer** to help protect yourself from liability for criminal or civil acts involving the vehicle and the person(s) or entity taking ownership. However, the department will still notate your record if submitted after the 30 days.
- **Submission of this form does not transfer ownership.** The person(s) or entity taking ownership must file a title application with the appropriate entity (in Texas, the county tax assessor-collector's office) in order to record themselves as the owner and receive a title in their name. Until a new title is issued, the Texas title record will reflect the name of the existing owner(s).
- Provide as much information as possible about the persons(s) or entity to increase your protection from liability.
- When you submit this form, the motor vehicle record will be marked to show the vehicle has been transferred.
- You may submit this form electronically at [www.TxDMV.gov](http://www.TxDMV.gov) to more quickly mark the motor vehicle record to show the vehicle has been transferred. **Please do not submit this form both electronically and by mail.**
- Mail completed form to: **TxDMV Vehicle Titles and Registration Division, PO Box 26417, Austin, TX 78755-0417**

### Vehicle Information

Vehicle Identification Number	Year	Make	Body Style	Model
Title/Document Number	Texas License Plate Number			

### Transfer Information

Date of Transfer (by Sale, Gift, Donation, etc.)	For Cars (6,000 lbs. or less) or Light Trucks (10,000 lbs. or less) Did you keep your plates? <input type="checkbox"/> Yes <input type="checkbox"/> No
--------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------

### Transferor Information – Person(s) or entity transferring (by sale, gift, donation, etc.) the vehicle

First Name (or Entity Name) as shown on the Texas title	Middle Name	Last Name	Suffix (if any)
Address	City	State	Zip
Country	Phone Number	Email	

### New Owner Information – Person(s) or entity to whom the vehicle was transferred

First Name (or Entity Name)	Middle Name	Last Name	Suffix (if any)
Additional First Name (if applicable)	Middle Name	Last Name	Suffix (if any)
Address	City	State	Zip
Country	Phone Number	Email	

### Certification – State law makes falsifying information a third degree felony

I, the above listed transferor, am notifying the Texas Department of Motor Vehicles that I have transferred the above vehicle, which was legally owned by me and had a Texas title issued in my name. I understand the department will notate the transfer on the vehicle record, and under Texas law, the vehicle will remain in my name until the new owner(s) transfers the title into their name.

Signature of Transferor	Printed Name (Same as Signature)	Date
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Texas Department of Motor Vehicles

### Repossessed Motor Vehicle Affidavit

#### Instructions

This form must be completed when a vehicle is repossessed. All fields are required to be completed. Select the applicable "Method of Repossession" and attach any required documentation, if applicable. This completed form must be submitted to a county tax assessor-collector's office in addition to all other required documents at the time of title transfer.

#### Vehicle Information

Vehicle Identification Number	Year	Make	Body Style	Model
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#### Lienholder Information

Name of Lienholder	Phone Number	Date of Repossession	
Authorized Agent Name	Email		
Address	City	State	Zip

#### Method of Repossession – check applicable box

**Terms of Security (Lien) Agreement**

If the lienholder repossessing the vehicle is recorded on the Texas title, the lienholder may reassign the title to a subsequent purchaser. If the lienholder is not recorded on the Texas title, the lienholder (dealer included) must apply for a Texas title in their name with a certified copy of the security agreement before transferring the vehicle.

**Sequestration**

The original or a certified copy of the Sheriff's Bill of Sale must be submitted with the title application. (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**

Dealership Name	Dealer's General Distinguishing Number
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A "floor plan" lien covers vehicles in a dealer's inventory. 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 Texas Title and/or Registration* (Form 130-U) in the name of the purchaser must be supported by the following documentation:

- Manufacturer's Certificate of Origin or Certificate of Title properly assigned to the dealership and reassigned to the purchaser by the lienholder, and
- Security Agreement or UCC Financing Statement (Form UCC1).

#### Certification- State law makes falsifying information a third degree felony

I, the authorized agent for the lienholder listed above, certify the statements herein are true and correct and the vehicle described above was repossessed.

Signature of Authorized Agent	Printed Name (Same as Signature)	Date
-------------------------------	----------------------------------	------

NOTARY  
STAMP  
HERE

Before me, a notary public, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed on this document, and being by me first duly sworn, declared that the statements herein contained are true and correct.

State of Texas, County of	Notary Public's Signature	Date
---------------------------	---------------------------	------

## CHAPTER 7.

### SALES TAXES, VEHICLE INVENTORY TAXES, AND STANDARD PRESUMPTIVE VALUE

NOTE: This section is meant solely as an introduction 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 (Comptroller). 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://comptroller.texas.gov/taxinfo/taxforms/14-forms.html>

**7.1 Sales Tax.** A sales tax, currently 6.25 percent, is levied on 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 not paid within an additional 30 calendar days, an additional 5 percent penalty is due.

**7.2 Seller-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 apply for and 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.

Sales tax is paid on the receipts collected during each reporting period at the time of filing the seller-financed report. The tax is paid only on the amounts collected. 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. Most dealers prefer this method.

In the event that sales tax is paid in full when the application for transfer of title is submitted no refund is available if repossession occurs.

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 non-qualifying 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.

A seller-finance dealer may transfer the finance contract on a vehicle to a qualifying related finance company without accelerating the tax. However, it only applies to qualifying transfers

after a related finance company has registered with the Comptroller's office and paid a \$600 registration fee. A qualifying related finance company is an entity that has at least 80 percent ownership identical to the ownership of the dealer.

The application for a seller finance permit is Form AP-169 and the seller finance report is Form 14-117. The application for a related finance company is Form AP-222.

**7.3 Cash Sales and Third Party Finance 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 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 himself or herself. These complaints result in warning letters and civil penalties assessed against the dealer by TxDMV. Failure to collect and pay tax may also result in actions by the Comptroller.

#### **7.4 Exemption/Resale Certificates.**

- 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 must 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 certificate should be furnished to the buyer and retained by the seller.
- 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. 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. The form 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 toward the end of this Chapter.
- c. Orthopedic handicap exemption.** A dealer selling a motor vehicle may not collect motor vehicle sales tax from a person claiming the orthopedic handicap exemption. Claim for the exemption must be on Form 14-318 prescribed by the Comptroller, signed by the purchaser at the time of purchase and provided to the seller. See the end of this Chapter for a copy of this form. The Comptroller may require additional documentation by rule. The seller who obtains the required certificate is held harmless and has no responsibility to investigate.

Other exemptions such as for religious organizations are claimed on the title application.

**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. A copy of the forms may be found in this Manual toward the end of this Chapter.**

- 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 TxDMV 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. **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. **TxDMV 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 TxDMV by the chief appraiser and the tax assessor-collector offices. The law requires TxDMV 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 DMV 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 TxDMV 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 TxDMV 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 \$1,000 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 7-13. 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 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 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;
- Governmental sales.

**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 30 calendar days from the purchase date or within 30 calendar 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 rules. 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](http://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 in on page 7-11 and further instructions are on the back of the form, which appear on page 7-12.

**7.8 Gift Tax.** Effective September 1, 2009, transactions that qualify to be taxed as a gift (\$10) are limited to those transactions where the vehicle is given to, or accepted from a:

- parent or stepparent;
- grandparent or grandchild;
- child or stepchild;
- sibling;
- guardian; or
- Decedent's estate.
- A vehicle also qualifies to be taxed as a gift when it is donated to, or given by, a 501 (c)(3) nonprofit service organization.

Otherwise, transactions without consideration are a sale and will be subject to tax calculated on the vehicle's standard presumptive value (industry book value).

To document a gift, the donor and person receiving the vehicle must complete a joint notarized affidavit of fact describing the transaction and the relationship between the parties. Affidavit of Motor Vehicle Gift Transfer (form 14-317) must be provided to the County Tax Assessor Collector. Available at <http://comptroller.texas.gov/taxinfo/taxforms/14-317.pdf>

## 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	Model year	State or country where vehicle will be used/registered
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Seller

Street address

City, state and ZIP code

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. I understand that, if I register the vehicle in Texas, the exemption I am claiming will be presumed invalid.

By signing below, I hereby authorize the Comptroller to provide a copy of this certificate to the state or country in which the vehicle will be titled, registered and used. I understand that I will be liable for payment of motor vehicle sales or use taxes that may become due if I fail to comply with the provisions of the Texas Tax Code, Chapter 152, *Taxes on Sale, Rental, and Use of Motor Vehicles*.

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 more than 10 nor fewer than 2 years, or a fine of not more than \$10,000, or both.

 Purchaser	Title	Date
-----------------------------------------------------------------------------------------------	-------	------

**Blanket exemption certificate.** A purchaser may provide a blanket Motor Vehicle Sales Tax Exemption Certificate to a seller when purchasing motor vehicles to be used exclusively outside of Texas. The seller may rely on the blanket certificate until it is revoked in writing. The Vehicle Identification Number (VIN), make and model year are not required on this form when being used as a blanket exemption certificate; instead, enter "Blanket Certificate."

When this form is used as a blanket certificate, the seller must retain the following information for each transaction purchased under the certificate, as required by Texas Tax Code Section 152.063, including:

- Vehicle Identification Number
- make of vehicle
- model year
- state or country where vehicle will be used/registered

*NOTE: This certificate does NOT require a taxpayer number to be valid.*

This certificate should be furnished to, and retained by, the seller.  
Do not send the completed certificate to the Texas 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		

Purchaser claims this vehicle is being purchased for resale purposes ONLY.

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.

*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.*

 Purchaser	Title	Date
-----------------------------------------------------------------------------------------------	-------	------

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

## Texas Motor Vehicle Orthopedically Handicapped Exemption Certificate

Complete this certificate to claim an exemption of motor vehicle sales tax for a vehicle that will be modified for an orthopedically handicapped person or persons.

### Section 1

**Purchaser: Complete this certificate and provide to selling dealer or County Tax Assessor-Collector.**

<b>Purchaser</b>	Name of purchaser		Name of eligible orthopedically handicapped person	
	Purchaser mailing address		Purchaser phone (Area code and number)	
	City	State	ZIP code	

**Selling dealer: Retain a copy of this certificate and provide the original certificate and related required documents to the County Tax Assessor-Collector at time of title transfer.**

<b>Seller</b>	Name of seller		Texas dealer number	
	Mailing address			
	City	State	ZIP code	

<b>Vehicle</b>	Make of vehicle		Vehicle Identification Number (VIN)	
	Year model	Body style	License number	
	<input type="text"/>		<input type="text"/>	

I, the purchaser, claim exemption from payment of motor vehicle sales and use tax on the purchase of the vehicle described above. The vehicle is/will be modified and will be operated primarily (80% of operating time) by or to transport an eligible orthopedically handicapped person. I am providing  a copy of the restricted Texas Driver License indicating required modification; or  a practitioner's statement below.

Definitions of eligible person and vehicle modifications are on back of certificate.

 Purchaser's signature		Date
-----------------------------------------------------------------------------------------------------------	--	------

### Section 2 - Practitioner of Healings Arts Statement

Name of practitioner		Professional license number	
Mailing address			
City	State	ZIP code	

I certify that the person named in Section 1 is orthopedically handicapped, and in order to operate or be transported in a motor vehicle in a reasonable manner, the vehicle must be modified with qualifying adaptive devices/modifications.

 Practitioner's signature		Date
--------------------------------------------------------------------------------------------------------------	--	------

Tax Code §152.101 provides a penalty to a person who signs a false statement. An offense under this section is a felony of the third degree.

Under Ch. 559, Government Code, you are entitled to review, request and correct information we have 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 public information coordinator at the office where you submit this form.

**An orthopedically handicapped person** is an individual who has limited movement of body extremities and/or loss of physical function. The physical impairment must be such that the person is either unable to operate or be transported in a reasonable manner in a motor vehicle that has not been specially modified.

**A motor vehicle is exempt from sales and use tax if:**

- it has been or will be specifically modified for operation by or for the transportation of a person who is orthopedically handicapped at the time of purchase; and
- is primarily driven by, or primarily used for the transportation of, an orthopedically handicapped person.

**Eligible purchasers** are individuals, partnerships, corporations or associations who may purchase vehicles under this exemption if the requirements are satisfied. An institution, facility or retirement community is not required to identify a particular eligible orthopedically handicapped person or to provide a practitioner's statement.

**A motor vehicle modified for operation by an orthopedically handicapped person** is a vehicle that has been permanently modified by altering such items as the conventional brake, acceleration system or steering system to facilitate the operation of the vehicle by an orthopedically handicapped driver.

**A motor vehicle modified for transportation of an orthopedically handicapped person** is a vehicle that has been permanently modified by the installation of such items as a wheelchair lift, hoist, attached ramp, wheelchair hold-down clamps, raised roof or special seat restraints other than conventional seat belts to allow for the transportation of an orthopedically handicapped person in a reasonable manner.

**Primarily driven by or primarily used for the transportation of an orthopedically handicapped person** means that the motor vehicle must be driven by or used for the transportation of an orthopedically handicapped person at least 80 percent of the motor vehicle's operating time.

**Modifications that DO NOT qualify a motor vehicle for exemption** include, but are not limited to:

- installation of standard factory options, such as an automatic transmission, power seats, power windows or adjustable pedals;
- installation of weight-bearing grab bars or handicap assist handles;
- installation of running boards or steps;
- installation of steering wheel spinner knobs;
- installation of nonelectrical carriers designed for bicycles or wheelchairs;
- installation of standard trailer hitches; or
- the addition of ramps, including bi-fold ramps, that are not permanently attached to the vehicle.

**A person claiming this exemption** must present to the seller or County Tax Assessor-Collector:

- a properly completed Comptroller Form 14-318, Texas Motor Vehicle Orthopedically Handicapped Exemption Certificate; and
- a restricted Texas driver license, issued to the qualified orthopedically handicapped person, which requires a modification restriction on the vehicle and verifies that the orthopedically handicapped driver is so physically impaired as to be unable to operate a motor vehicle that has not been modified; or
- a statement from a licensed practitioner of the healing arts that the qualified orthopedically handicapped person requires adaptive devices and/or modifications necessary to reasonably operate or transport the orthopedically handicapped person. This requirement is satisfied by the practitioner's signature on the Texas Motor Vehicle Orthopedically Handicapped Exemption Certificate.

*If you have questions or need additional information, please call (800) 252-1382 or visit the Comptroller's website at [www.window.state.tx.us](http://www.window.state.tx.us).*



# Used Motor Vehicle Certified Appraisal Form

**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

### 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.*

<b>PURCHASER INFORMATION</b>			
Name		Phone (Area code and number)	
Address		City	State ZIP code
<b>MOTOR VEHICLE INFORMATION</b>			
Year	Make	Model	Odometer reading
			VIN
<b>APPRAISER INFORMATION</b>			
Motor Vehicle Dealer or Licensed Insurance Adjuster Name		Motor Vehicle Dealer or Licensed Insurance Adjuster Number	
Address		City	State ZIP code
Printed Name of Appraiser		Phone (Area code and number)	
<b>APPRAISAL INFORMATION</b>			
Retail value .....			\$
Explanation for appraised retail value (e.g., identify mechanical, appearance, or other factors that affect the appraised retail value)			
Appraisal fee .....			\$
<i>See the other side of this form for details on appraising and fees.</i>			
<b>SIGNATURE</b>			
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		Date of appraisal	
<b>sign here</b> <input type="text"/>		<input type="text"/>	

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

## **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.comptroller.texas.gov](http://www.comptroller.texas.gov) under "Texas Taxes." You can also call the Comptroller's office at 1-800-252-1382, or write the Comptroller of Public Accounts, P.O. Box 13538, Austin, TX 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, visit the Comptroller's website at [www.comptroller.texas.gov](http://www.comptroller.texas.gov), or call the Comptroller's office at 1-800-252-1382.

Publication 96-116, *Motor Vehicle Sales, Use and Rental Tax*, explains the law and its provisions and is available at [www.comptroller.texas.gov](http://www.comptroller.texas.gov).

The seal of the Texas Comptroller of Public Accounts is visible in the background. It features a five-pointed star in the center, surrounded by a wreath of olive and oak branches. The words "THE COMPTROLLER" are written in a circular path around the top, and "TEXAS" is at the bottom.

**Glenn Hegar**

Texas Comptroller of Public Accounts

# Motor Vehicle Dealer's Special Inventory

Instructions for Filing Forms  
and Paying Property Taxes

June 2015

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By publishing this manual, the Texas Comptroller of Public Accounts is providing general information. The information is provided as a public service and is intended to be used solely for informational purposes. This publication does not address all aspects of law applicable to motor vehicles dealers' special inventory, and the Comptroller's office is not offering legal advice. The information contained in this manual neither constitutes nor serves as a substitute for legal advice. Questions regarding the meaning or interpretation of statutes, legal requirements and other matters should, as appropriate or necessary, be directed to an attorney or other appropriate counsel.

Dealers' motor vehicle inventory laws are found primarily in Tax Code Sections 23.121, 23.122, and 23.123.



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# Motor Vehicle Dealer's Special Inventory

## Special Inventory Appraisal

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. Except as provided by Tax Code Section 23.122(l), dealers must file with the county appraisal district a *Dealer's Motor Vehicle Inventory Declaration* form listing the total annual sales from the inventory 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.

A dealer is presumed to be an owner of a dealer's motor vehicle inventory on Jan. 1 if in the prior year the dealer sold a motor vehicle to a person other than a dealer. This presumption is not rebutted by the fact that a dealer has no motor vehicles physically on hand for sale from the dealer's motor vehicle inventory on Jan. 1.

Tax Code Section 23.121(a)(3) excludes from the definition of dealer a person who holds a manufacturer's license issued under Occupations Code Chapter 2301; an entity that is owned or controlled by a person who holds a manufacturer's license issued under Occupations Code Chapter 2301; and a dealer whose General Distinguishing Number (GDN) prohibits the dealer from selling a vehicle to any person except a dealer. The term also does not include a dealer who:

1. does not sell motor vehicles that are self propelled vehicles designed to transport persons or property on a public highway;
2. meets either of the following requirements:
  - a. the total annual sales from the dealer's motor vehicle(s) inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year are 25 percent or less of

the dealer's total revenue from all sources during that period; or

- b. the dealer did not sell a motor vehicle to a person other than another dealer during the 12-month period corresponding to the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25 percent or less of the dealer's total revenue from all sources during that period;
3. not later than Aug. 31 of the preceding tax year, filed with the chief appraiser and the collector, the Comptroller's *Dealer's Motor Vehicle Inventory Election for Rendition* stating that the dealer elected not to be treated as a dealer in the current tax year; and
4. renders the dealer's motor vehicle inventory in the current tax year by filing a rendition in the manner provided by Tax Code Chapter 22.

Except for dealer's motor vehicle inventory, personal property held by a dealer is appraised as provided by law. In the case of a dealer whose sales from dealer's motor vehicle inventory are made predominately to dealers, the chief appraiser shall appraise the dealer's motor vehicle inventory as provided by Tax Code Section 23.12.

## Definitions for Tax Code Section 23.121

1. "Chief appraiser" means the chief appraiser for the appraisal district in which a dealer's motor vehicle inventory is located.
2. "Collector" means the county tax assessor-collector in the county in which a dealer's motor vehicle inventory is located.

3. "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Chapter 503, Transportation Code, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Tax Code Section 152.063(f). The term does not include:
- (A) a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code;
  - (B) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code; or
  - (C) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Chapter 503, Transportation Code, prohibits the dealer from selling a vehicle to any person except a dealer.
  - (D) a dealer who:
    - (i) does not sell motor vehicles described by Tax Code Section 152.001(3)(A);
    - (ii) meets either of the following requirements:
      - (a) the total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year are 25 percent or less of the dealer's total revenue from all sources during that period; or
      - (b) the dealer did not sell a motor vehicle to a person other than another dealer during the 12-month period corresponding to the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25 percent or less of the dealer's total revenue from all sources during that period;
    - (iii) not later than August 31 of the preceding tax year, filed with the chief appraiser and the collector a declaration on a form prescribed by the comptroller stating that the dealer elected not to be treated as a dealer under this section in the current tax year; and
    - (iv) renders the dealer's motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser in the manner provided by Chapter 22.
4. "Dealer's motor vehicle inventory" means all motor vehicles held for sale by a dealer.
5. "Dealer-financed sale" means the sale of a motor vehicle in which the seller finances the purchase of the vehicle, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement evidencing the sale.
6. "Declaration" means the dealer's motor vehicle inventory declaration form promulgated by the comptroller as required by this section.
7. "Fleet transaction" means the sale of five or more motor vehicles from a dealer's motor vehicle inventory to the same person within one calendar year.
8. "Motor vehicle" means a towable recreational vehicle or a fully self-propelled vehicle with at least two wheels which has as its primary purpose the transport of a person or persons, or property, whether or not intended for use on a public street, road, or highway. The term does not include:
- (A) a vehicle with respect to which the certificate of title has been surrendered in exchange for a salvage certificate in the manner provided by law; or
  - (B) equipment or machinery designed and intended to be used for a specific work-related purpose other than the transporting of a person or property.
9. "Owner" means a dealer who owes current year vehicle inventory taxes levied against a dealer's motor vehicle inventory.
10. "Person" means a natural person, corporation, partnership, or other legal entity.
11. "Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles. In a transaction that does not involve

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the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

12. "Subsequent sale" means a dealer-financed sale of a motor vehicle that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's motor vehicle inventory in the same calendar year.
13. "Total annual sales" means the total of the sales price from every sale from a dealer's motor vehicle inventory for a 12-month period.
14. "Towable recreational vehicle" means a nonmotorized vehicle that is designed for temporary human habitation for recreational, camping, or seasonal use and:
  - (A) is titled and registered with the Texas Department of Motor Vehicles through the office of the collector;
  - (B) is permanently built on a single chassis;
  - (C) contains one or more life support systems; and
  - (D) is designed to be towable by a motor vehicle.

### Definitions Tax Code Section 23.122

1. "Aggregate tax rate" means the combined tax rates of all relevant taxing units authorized by law to levy property taxes against a dealer's motor vehicle inventory.
2. "Chief appraiser" has the meaning given it in Section 23.121 of this code.
3. "Collector" has the meaning given it in Section 23.121 of this code.
4. "Dealer's motor vehicle inventory" has the meaning given it in Section 23.121 of this code.
5. "Declaration" has the meaning given it in Section 23.121 of this code.
6. "Owner" has the meaning given it in Section 23.121 of this code.
7. "Relevant taxing unit" means a taxing unit, including the county, authorized by law to levy property taxes against a dealer's motor vehicle inventory.
8. "Sales price" has the meaning given it in Section 23.121 of this code.

9. "Statement" means the Dealer's Motor Vehicle Inventory Tax Statement filed on a form promulgated by the comptroller as required by this section.
10. "Subsequent sale" has the meaning given it in Section 23.121 of this code.
11. "Total annual sales" has the meaning given it in Section 23.121 of this code.
12. "Unit property tax factor" means a number equal to one-twelfth of the prior year aggregate tax rate at the location where a dealer's motor vehicle inventory is located on January 1 of the current year.

## Dealer's Instructions for Filing Forms and Paying Property Taxes

### Step 1 – Dealer files the *Dealer Motor Vehicle Inventory Declaration form*

The current year's tax bills received in Oct. are based on the market value of the inventory and the current year's tax rates. Dealers must file declarations meeting the following schedule and criteria:

- file one declaration each year not later than Feb. 1;
- file with the county appraisal district and send a copy to the county tax office; and
- if you were not in business on Jan. 1, file a declaration form within 30 days of commencing business which is presumed to be the date of the issuance of the dealer's GDN. A chief appraiser has the discretion to designate a different date that a dealer commences business.

### Complete the *Dealer's Motor Vehicle Inventory Declaration form*, including:

- name and business address of each location at which the dealer owner conducts business,
- each of the dealer's GDN issued by the Texas Department of Motor Vehicles,
- market value of the dealer's motor vehicle inventory for the current tax year, and
- statement that the dealer owner is the owner of a dealer's motor vehicle inventory.

### Calculate current year's market value

The market value of a dealer's motor vehicle inventory on Jan. 1 is the total prior year's annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, divided by 12. For an owner who was not a dealer on Jan. 1 of the prior tax year, the chief appraiser shall estimate the market value of the dealer's motor vehicle inventory. In making the estimate, the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's motor vehicle inventory in the prior tax year.

### Reporting to the Texas Department of Motor Vehicles

If a dealer fails to file a declaration, or if, on the declaration, a dealer reports the sale of fewer than five motor vehicles in the prior year, the chief appraiser shall report that fact to the Texas Department of Motor Vehicles and the department shall initiate termination proceedings. The chief appraiser shall include with the report a copy of a declaration, if any, indicating the sale by a dealer of fewer than five motor vehicles in the prior year. A report by a chief appraiser to the Texas Department of Motor Vehicles is prima facie grounds for the cancellation of the dealer's GDN or for refusal by the Texas Department of Motor Vehicles to renew the dealer's GDN.

### Penalties

A dealer who does not file a declaration form by Feb. 1 of each year commits a misdemeanor offense punishable by

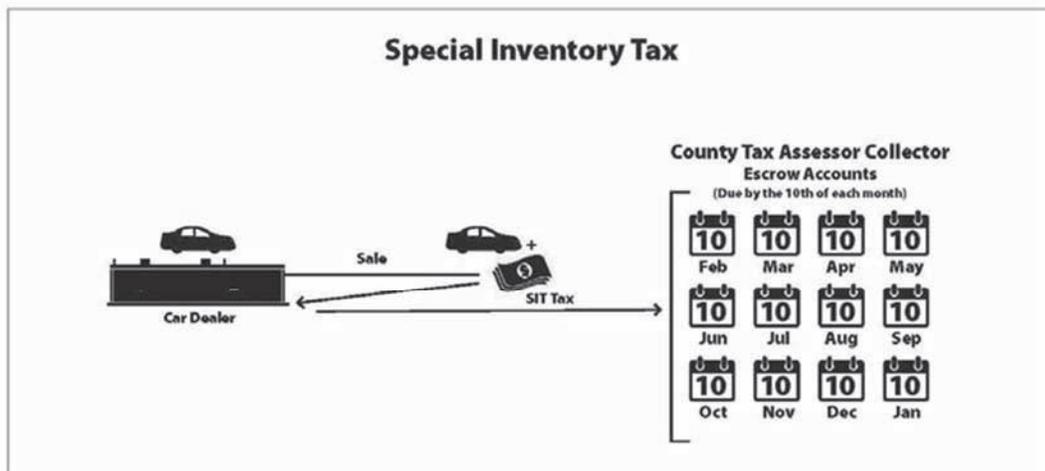
a fine of up to \$500 per day until filed. In addition to any other penalty provided by law, a dealer forfeits an additional penalty of \$1,000 for each month or portion of month that it is not filed. A tax lien can be attached to the dealer's business personal property to secure payment of the penalty.

### Step 2 – Owner files the Dealer's Motor Vehicle Inventory Tax Statement

Each month, a dealer must file a separate inventory tax statement for each business location regardless of whether or not the dealer owes vehicle inventory tax for the current year. A dealer who owes no vehicle inventory tax for the current year because the dealer was not in business on Jan. 1 may not assign a unit property tax to a motor vehicle sold by the dealer nor remit money with the statement unless pursuant to the terms of a contract.

Dealer must file statements meeting the following schedule and criteria:

- file 12 statements per year;
- file by the 10th of each month for the prior month;
- file with the county tax office, together with prepayment of taxes;
- send a copy of the form to the county appraisal district;
- file a statement indicating no sales if no motor vehicles were sold during the month;



- file monthly, but do not assign unit property tax or send prepayment of taxes if not in business on Jan. 1; and
- retain documentation of each motor vehicle sold.

A dealer must use the Comptroller's *Dealer's Motor Vehicle Inventory Tax Statement* which may include information the Comptroller deems appropriate and must include:

1. description of each motor vehicle sold;
2. sales price of the motor vehicle;
3. unit property tax of the motor vehicle if any; and
4. the reason no unit property tax is assigned if no unit property tax is assigned.

### Step 3 – Dealer makes a prepayment of taxes

On or before the 10th day of each month, an owner is required to deposit with the collector the total unit property tax assigned to all motor vehicles sold from the dealer's motor vehicle inventory in the prior month to which a unit property tax was assigned, together with the monthly statement. The money is deposited by the collector in the owner's escrow account for prepayment of property taxes levied against the dealer's motor vehicle inventory. An owner may not withdraw funds from the escrow account.

*Contact the county tax assessor-collector or appraisal district for the unit property tax factor:* The unit property tax factor is calculated by dividing the aggregate tax rate by 12. If the aggregate tax rate is expressed in dollars per \$100 of valuation, divide by \$100 and then divide by 12. It represents one-twelfth of the preceding year's aggregate tax rate at the location where the dealer's motor vehicle inventory is located on Jan. 1 of the current year.

*Calculate the unit property tax:* The unit property tax of each motor vehicle is determined by multiplying the sales price of the motor vehicle by the unit property tax factor.

*Assign a unit property tax:* Except for a vehicle sold to a dealer, a vehicle included in a fleet transaction or a vehicle that is the subject of a subsequent sale, an owner must assign a unit property tax to each motor vehicle sold from a dealer's motor vehicle inventory. Do not assign a unit property tax if you were not in business on Jan. 1.

### Penalties

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

### Step 4 – County tax collector pays annual inventory taxes from escrow account

The assessor(s) for the taxing units provides the collector a copy of the tax bill sent to the owner, usually in Oct. or Nov. The collector applies the money in the owner's escrow account to the imposed taxes of each taxing unit in proportion to the amount of levied taxes. An owner receives a tax receipt for payment and an additional tax bill for any deficiency in the escrow account. An owner must pay the deficiency by Jan. 31 to avoid delinquency.

Not later than Feb. 15, the collector must distribute to the taxing units all funds collected and held in escrow.

### Agreement to Pay Current Taxes by Contract

A person who acquires the business or assets of an owner may, by contract, agree to pay the current year motor vehicle inventory taxes owed by the owner. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement for the purchaser to pay the current year inventory taxes owed by the selling dealer. The chief appraiser and the collector shall adjust their records accordingly. A person who agrees to pay current year taxes is not required to file a declaration until the year following the acquisition. This does not relieve the selling owner of tax liability.

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## Chief Appraiser Inspection of Documentation

A chief appraiser may examine the records of the holder of a GDN issued by the Texas Department of Motor Vehicles. A request must be made in writing, delivered personally to the custodian of the records, at the location for which the GDN has been issued, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. The chief appraiser may examine:

1. the document issued by the Texas Department of Motor Vehicles showing the person's GDN;
2. documentation appropriate to allow the chief appraiser to ascertain the applicability of Tax Code Sections 23.121 and 23.122 to the person;
3. sales records to substantiate information set forth in the dealer's declaration filed by the person.

A dealer who violates these provisions commits a misdemeanor offense punishable by a fine not to exceed \$500 per day. A chief appraiser and collector may examine certain documentation held by a dealer as set forth in Tax Code Section 23.121(g).

## Confidential Information

A declaration or statement filed with a chief appraiser or collector is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account. This confidential information may be disclosed in the following ways:

1. in a judicial or administrative proceeding pursuant to a lawful subpoena;
2. to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;
3. to the Comptroller or an employee of the Comptroller authorized by the Comptroller to receive the information;

4. to a collector or chief appraiser;
5. to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Tax Code Sections 23.121 or 23.122;
6. for statistical purposes if in a form that does not identify specific property or a specific property owner;
7. if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or
8. to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

## Questions

- For specific questions on the declaration form, contact the county appraisal district.
- For specific questions on the monthly tax statement form, contact the county tax office.
- For general questions, contact the Comptroller's Property Tax Assistance Division by email at [ptad.cpa@cpa.texas.gov](mailto:ptad.cpa@cpa.texas.gov) or 1-800-252-9121 (press 2 to access the menu and then press 1 to contact the Information Services Team).

Declaration Form 50-244



Dealer's Motor Vehicle Inventory Declaration

Property Tax Form 50-244

CONFIDENTIAL

Year

Send Original to: Appraisal District Name and Address

Phone (area code and number)

Send Copy to: County Tax Office and Address

Phone (area code and number)

This document must be filed with the appraisal district office and the county tax assessor-collector's office in the county in which your business is located. Do not file this document with the office of the Texas Comptroller of Public Accounts. Location and address information for the appraisal district office in your county may be found at comptroller.texas.gov/propertytax/references/directory/cad. Location and address information for the county tax assessor-collector's office in your county may be found at comptroller.texas.gov/propertytax/references/directory/tac.

GENERAL INSTRUCTIONS: This declaration is for a dealer of motor vehicles to declare motor vehicle inventory pursuant to Tax Code Section 23.121. File a declaration for each business location.

ALTERNATIVE ELECTION: Effective Jan. 1, 2014, certain dealers of motor vehicle inventory may elect to file renditions under Tax Code Chapter 22, rather than file declarations and tax statements under Tax Code Chapter 23. Tax Code Section 23.121(a)(3) allows a dealer to make this election if it (1) does not sell motor vehicles that are self-propelled and designed to transport persons or property on a public highway; (2) meets either of the following two requirements: (a) the total annual sales from the inventory, less sales to dealers, fleet transactions, and subsequent sales, for the preceding tax year are 25% or less of the dealer's total revenue from all sources during that period, or (b) the dealer did not sell a motor vehicle to a person other than another dealer during the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25% or less of the dealer's total revenue from all sources during that period; (3) files with the chief appraiser and the tax collector by Aug. 31 of the tax year preceding Jan. 1 on a form prescribed by the Comptroller a declaration that the dealer elects not to be treated as a dealer under Tax Code Section 23.121 in the current tax year; AND (4) renders the dealer's motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser in the manner provided by Tax Code Chapter 22. A dealer who makes this election must file the election annually with the chief appraiser and the tax collector by Aug. 31 of the preceding tax year, so long as the dealer meets the eligibility requirements of law.

WHERE TO FILE: Each declaration must be filed with the county appraisal district's chief appraiser and a copy of each declaration must be filed with the collector.

DECLARATION DEADLINES: Except as provided by Tax Code Section 23.122(f), a declaration must be filed not later than Feb. 1 of each year or, in the case of a dealer who was not in business on Jan. 1, not later than 30 days after commencement of the business. A dealer is presumed to have commenced business on the date of issuance of a dealer's general distinguishing number as provided by Transportation Code Chapter 503. Notwithstanding this presumption, a chief appraiser may, at his or her sole discretion, designate another date on which a dealer commenced business.

PENALTIES: A dealer who fails to file a declaration commits a misdemeanor offense punishable by a fine not to exceed \$500. Each day during which a dealer fails to comply is a separate violation. In addition to other penalties provided by law, a dealer who fails to file or timely file a required declaration must forfeit a penalty of \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due. A tax lien attaches to the dealer's business personal property to secure payment of the penalty.

OTHER IMPORTANT INFORMATION

The chief appraiser may examine the books and records of a dealer as provided by Tax Code Section 23.121(g).

STEP 1: Dealer Information

Name of Dealer

Mailing Address

City, State, ZIP Code

Phone (area code and number)

Name of Person Preparing this Application

Title

STEP 2: All Business Locations and General Distinguishing Numbers

Attach a list with the name and business address of each location at which you conduct business and each of the dealer's general distinguishing numbers issued by the Texas Department of Motor Vehicles.

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

For more information, visit our website: comptroller.texas.gov/taxinfo/proptax 50-244 • 04-15/12

**Declaration Form 50-244 (continued)**



**Dealer's Motor Vehicle Inventory Declaration**

**STEP 3: Business Location Information**

Provide the business name, general distinguishing number, physical address of the business location and account number for the inventory being declared or you may attach a tax bill or a copy of appraisal or tax office correspondence concerning your account.

Name of Business \_\_\_\_\_ General Distinguishing Number of Location \_\_\_\_\_

Address, Street, City, State, ZIP Code \_\_\_\_\_

Account Number (if known) \_\_\_\_\_ Business Start Date, if Not in Business on Jan. 1 \_\_\_\_\_

**STEP 4: Number of Units Sold and Sale Totals**

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. See the last page for additional instructions.

Motor Vehicle Inventory \_\_\_\_\_ Fleet Transactions \_\_\_\_\_ Dealer Sales \_\_\_\_\_ Subsequent Sales \_\_\_\_\_

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.

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
 Motor Vehicle Inventory Fleet Transactions Dealer Sales Subsequent Sales

**STEP 5: Market Value of Motor Vehicle Inventory**

State the market value of the motor vehicle inventory for the current tax year, as computed under Tax Code Section 23.121. Market value is total annual sales less sales to dealers, fleet transactions, and subsequent sales, from the dealer's motor vehicle inventory for the previous 12-month period corresponding to the prior tax year divided by 12. Total annual sales is the total of the sales price from every sale from a dealer's motor vehicle inventory for a 12-month period. If you were not in business for the entire 12-month period, report the total number of sales for the months you were in business. The chief appraiser will determine the inventory's market value.

\$ \_\_\_\_\_ ÷ 12 = \_\_\_\_\_  
 Dealer's Motor Vehicle Inventory Sales for Prior Year Market Value for Current Tax Year

**STEP 6: Signature and Date**

By signing this declaration, you certify that the dealer identified in Step 1 is the owner of a dealer's motor vehicle inventory.

On Behalf of (name of dealer) \_\_\_\_\_

**print here** → Print Name \_\_\_\_\_ Title \_\_\_\_\_

**sign here** → Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

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

For more information, visit our website: [comptroller.texas.gov/taxinfo/proptax](http://comptroller.texas.gov/taxinfo/proptax)

**Declaration Form 50-244 (concluded)**

Dealer's Motor Vehicle Inventory Declaration



## Additional Instructions

**Step 4. Number of units sold and sale totals.** The top row of boxes is the number of units sold for the preceding year in each category. The bottom row of boxes is the dollar amount sold for the previous year 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 (whether or not intended for use on a public street, road or highway) and includes a towable recreational vehicle. Motor vehicle does not include: 1. Vehicles with a certificate of title that has been surrendered in exchange for a salvage certificate; nor 2. equipment or machinery designed and intended for a specific work-related purpose other than transporting people or property. Motor vehicle inventory does not include fleet transactions, dealer sales or subsequent sales.
- **Fleet transaction** – motor vehicles included in the sale of five or more motor vehicles from your inventory to the same person 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 sale** – dealer-financed sale of a motor vehicle that, at the time of sale, has been the subject of dealer financing from your motor vehicle inventory in the same calendar year.

For more information, visit our website: [comptroller.texas.gov/taxinfo/proptax](http://comptroller.texas.gov/taxinfo/proptax)

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Election for Rendition Form 50-815



Dealer's Motor Vehicle Inventory Election for Rendition

Property Tax Form 50-815

Appraisal District Name and Address

Phone (area code and number)

County Tax Office Name and Address

Phone (area code and number)

This document must be filed with the appraisal district office and the county tax assessor-collector's office in the county in which your business is located. It must not be filed with the office of the Comptroller of Public Accounts. Location and address information for the appraisal district office in your county may be found at comptroller.texas.gov/propertytax/references/directory/cad/. Location and address information for the county tax assessor-collector's office in your county may be found at comptroller.texas.gov/propertytax/references/directory/tad/.

GENERAL INSTRUCTIONS: This form is for use by a dealer that elects not to be treated as a dealer under Tax Code Section 23.121 and opts to render the dealer's motor vehicle inventory by filing a rendition with the chief appraiser in the manner provided by Tax Code Chapter 22. For purposes of Tax Code Section 23.121, "dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Transportation Code Chapter 503, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Tax Code Section 152.063(f). A dealer who, pursuant to Tax Code Section 23.121 has elected not to be treated as a dealer and to render the dealer's motor vehicle inventory, must continue to file this form each year and render the dealer's motor vehicle inventory so long as the dealer meets the applicable requirements.

Note: The following are not considered "dealers" for purposes of Tax Code Sections 23.121 and 23.122 and are, therefore, not subject to the declaration requirements of that section (see Comptroller Form 50-244 - Dealer's Motor Vehicle Inventory Declaration and Comptroller Form 50-246 - Dealer's Motor Vehicle Inventory Tax Statement).

- (1) a person who holds a manufacturer's license issued under Occupations Code Chapter 2301;
(2) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Occupations Code Chapter 2301;
(3) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Transportation Code Chapter 503, prohibits the dealer from selling a vehicle to any person except a dealer; or
(4) a dealer who:
(A) does not sell motor vehicles described by Tax Code Section 152.001(3)(A);
(B) meets either of the following requirements:
(i) the total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year are 25 percent or less of the dealer's total revenue from all sources during that period; or
(ii) the dealer did not sell a motor vehicle to a person other than another dealer during the 12-month period corresponding to the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25 percent or less of the dealer's total revenue from all sources during that period;
(C) not later than Aug. 31 of the preceding tax year, filed with the chief appraiser and the collector a declaration on a form prescribed by the comptroller stating that the dealer elected not to be treated as a dealer under this section in the current tax year; and
(D) renders the dealer's motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser in the manner provided by Chapter 22.

WHERE TO FILE: This form must be filed with the chief appraiser and the county tax assessor-collector.

FILING DEADLINES: This form must be filed for each tax year for which a dealer elects not to be treated as a dealer no later than Aug. 31 of the preceding tax year. A dealer who is electing to file this form and opt to render their motor vehicle inventory is required to continue filing this election form and rendering the motor vehicle inventory annually so long as they meet the requirements.

State the Year for Which You are Applying

Tax Year

STEP 1: Dealer Information

Name of Dealer

Mailing Address

City, State, Zip Code

Phone (area code and number)

The Property Tax Assistance Division at the Texas Comptroller of Public Accounts provides property tax information and resources for taxpayers, local taxing entities, appraisal districts and appraisal review boards.

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**Election for Rendition Form 50-815 (concluded)**



**Dealer's Motor Vehicle Inventory Election for Rendition**

**STEP 2: Applicant Information**

Name of Individual Filing this Form \_\_\_\_\_ Title \_\_\_\_\_

Phone (area code and number) \_\_\_\_\_

**STEP 3: Dealership Information**

Physical Address of Business Location \_\_\_\_\_

Appraisal District Account Number (if known) (or attach tax bill or copy of appraisal or tax office correspondence concerning this account if available) \_\_\_\_\_ General Distinguishing Number (GDN) \_\_\_\_\_

**STEP 4: Election and Signature**

**print  
here** ▶

Print Name \_\_\_\_\_ Title \_\_\_\_\_

**sign  
here** ▶

Authorized Signature \_\_\_\_\_ 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 Penal Code Section 37.10.

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Monthly Tax Statement Form 50-246



Dealer's Motor Vehicle Inventory Tax Statement  
CONFIDENTIAL

Property Tax  
Form 50-246

Reporting Month \_\_\_\_\_ Year \_\_\_\_\_ Page \_\_\_\_\_ of pages \_\_\_\_\_

Send Original to: County Tax Office Name and Address \_\_\_\_\_

Phone (area code and number) \_\_\_\_\_

Send Copy to: Appraisal District Name and Address \_\_\_\_\_

Phone (area code and number) \_\_\_\_\_

This document must be filed with the county tax assessor-collector's office and the appraisal district office in the county in which your business is located. Do not file this document with the office of the Texas Comptroller of Public Accounts. Location and address information for the county tax assessor-collector's office in your county may be found at [comptroller.texas.gov/propertytax/references/directory/tac](http://comptroller.texas.gov/propertytax/references/directory/tac). Location and address information for the appraisal district office in your county may be found at [comptroller.texas.gov/propertytax/references/directory/cad](http://comptroller.texas.gov/propertytax/references/directory/cad).

**GENERAL INSTRUCTIONS:** This inventory tax statement must be filed by a dealer of motor vehicles pursuant to Tax Code Section 23.122. This statement is filed together with an amount equal to the total amount of the unit property tax assigned to all motor vehicles sold in the preceding month. File a separate statement for each business location and retain documentation relating to the disposition of each vehicle.

**ALTERNATIVE ELECTION:** Effective Jan. 1, 2014, certain dealers of motor vehicle inventory may elect to file renditions under Tax Code Chapter 22, rather than file declarations and tax statements under Tax Code Chapter 23. Tax Code Section 23.121(a)(3) allows a dealer to make this election if it (1) does not sell motor vehicles that are self-propelled and designed to transport persons or property on a public highway; (2) meets either of the following two requirements: (a) the total annual sales from the inventory, less sales to dealers, fleet transactions, and subsequent sales, for the preceding tax year are 25 percent or less of the dealer's total revenue from all sources during that period, or (b) the dealer did not sell a motor vehicle to a person other than another dealer during the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25 percent or less of the dealer's total revenue from all sources during that period; (3) files with the chief appraiser and the tax collector by Aug. 31 of the preceding tax year on a form prescribed by the Comptroller a declaration that the dealer elects not to be treated as a dealer under Tax Code Section 23.121 in the current tax year; AND (4) renders the dealer's motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser in the manner provided by Tax Code Chapter 22. A dealer who makes this election must file the election annually with the chief appraiser and the tax collector by Aug. 31 of the preceding tax year, so long as the dealer meets the eligibility requirements of law.

**WHERE TO FILE:** Each statement and prepayment of taxes must be filed with the county tax assessor-collector and a copy of each statement must be filed with the chief appraiser.

**STATEMENT DEADLINES:** Except as provided by Tax Code Section 23.122(g), a statement and prepayment of taxes must be filed on or before the 10th day of each month.

**PENALTIES:** A dealer who fails to file a statement as required commits a misdemeanor offense punishable by a fine not to exceed \$100. Each day during which a dealer fails to comply is a separate violation. In addition to other penalties provided by law, a dealer who fails to file or timely file a statement must forfeit a penalty of \$500 for each month or part of a month in which a statement is not filed or timely filed after it is due. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. In addition to other penalties provided by law, an owner who fails to remit unit property tax due must pay a penalty of 5 percent of the amount due. If the amount due is not paid within 10 days after the due date, the owner must pay an additional 5 percent of the amount due. Unit property taxes paid on or before Jan. 31 of the year following the date on which they are due are not delinquent.

OTHER IMPORTANT INFORMATION

The chief appraiser or collector may examine documents held by a dealer in the same manner and subject to the same conditions as provided by Tax Code Section 23.121(g) and 23.122(f).

STEP 1: Dealer Information

Name of Dealer \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, ZIP Code \_\_\_\_\_

Phone (area code and number) \_\_\_\_\_

Name of Person Completing Statement \_\_\_\_\_

Title \_\_\_\_\_

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Monthly Tax Statement Form 50-246 (continued)

Dealer's Motor Vehicle Inventory Tax Statement			
<b>STEP 4: Total Units Sold and Total Sales</b>			
Number of units sold for reporting month:			
Motor Vehicle Inventory	Fleet Transactions	Dealer Sales	Subsequent Sales
_____	_____	_____	_____
Sales amounts for reporting month:			
\$	\$	\$	\$
Motor Vehicle Inventory	Fleet Transactions	Dealer Sales	Subsequent Sales
_____	_____	_____	_____
<b>STEP 5: Signature and Date</b>			
Signature required on last page only.			
<b>print here</b>	_____	_____	_____
	Print Name	Title	
<b>sign here</b>	_____	_____	_____
	Authorized Signature	Date	
If you make a false statement on this report, you could be found guilty of a Class A misdemeanor or a state jail felony under Penal Code Section 37.10.			
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Monthly Tax Statement Form 50-246 (concluded)



Dealer's Motor Vehicle Inventory Tax Statement

## Additional Instructions

**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:

<sup>1</sup> **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 (whether or not intended for use on a public street, road, or highway) and includes a towable recreational vehicle. Motor vehicle does not include: 1. vehicles with a certificate of title that has been surrendered in exchange for a salvage certificate; nor 2. equipment or machinery designed and intended for a specific work related purpose other than transporting people or property.

**FL – fleet transactions** – motor vehicles included in the sale of five or more motor vehicles from inventory to the same person within one calendar year.

**DL – dealer sales** – sales of vehicles to another Texas dealer or 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 the same calendar year.

<sup>2</sup> **Sales Price:** Total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

<sup>3</sup> **Unit Property Tax:** To compute, multiply the sales price by the unit property tax factor. Contact either the county tax assessor-collector or county appraisal district for the current unit property tax factor. The unit property tax factor is calculated by dividing the prior year's aggregate tax rate by 12. If the aggregate tax rate is expressed in dollars per \$100 of valuation, divide by \$100 and then divide by 12. It represents one-twelfth of the preceding year's aggregate tax rate at the location. For fleet, dealer and subsequent sales that are not included in the motor vehicle inventory, the unit property tax is \$-0-. If no unit property tax is assigned, state the reason.

<sup>4</sup> **Total unit property tax for reporting month:** Enter the total amount of unit property tax from the "Total for this page only" box on previous page(s). This is the total amount of unit property tax that will be submitted with the statement to the collector.

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Publication #96-545  
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## CHAPTER 8.

### VEHICLE LESSORS AND LEASE FACILITATORS

**8.1 Definitions.** Vehicle Lessors and Vehicle Lease Facilitators have been regulated since 1995. 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 §§ 215.171-215.181. The following definitions come from the statutes.

- a. 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. (See Occupations Code § 2301.002(34))
- b. Vehicle Lessor.** A vehicle lessor is a person who leases or offers to lease a motor vehicle to another person under a lease agreement (See Occupations Code § 2301.002(36))
- c. Vehicle Lease Facilitator.** A vehicle 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. (See Occupations Code § 2301.002(35))

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

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

- State or federally chartered financial institutions;
- Regulated subsidiary of a state or federally chartered financial institution;
- Trust or other entity that owns an interest in a lease that was initiated, managed, serviced, and administered by a licensed vehicle lessor;
- 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 vehicle lessor or vehicle 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 Vehicle Lessor or Vehicle Lease Facilitator License.** The application for a vehicle lessor or vehicle lease facilitator's license must be on the form prescribed by the TxDMV. A complete license application packet may be obtained by calling, or emailing the Motor Vehicle Division, or going to the TxDMV website ([www.txdmv.gov](http://www.txdmv.gov)) and requesting the proper application. Care should be taken to fill out all blanks and submit the application with the proper supporting documents which include:

**a. Vehicle Lessor's License Application**

- verification of the criminal background of each owner and officer of the applicant, if applicable;
- the fee required by law for each type of license required;
- a copy of each assumed name certificate on file with the appropriate recording entity, such as the Office of the Secretary of State or the county clerk;
- a sample copy of the vehicle lease agreement between the vehicle lessor and a lessee;
- a sample copy of the required fee disclosure statement regarding fees paid by the vehicle lessor to a vehicle lease facilitator for the facilitation of a vehicle lease or a statement that no such fees were or will be paid;
- a list including the business name(s), DBA(s), and addresses of lease facilitators with whom the applicant conducts or intends to conduct business; and
- a list of other satellite offices that conduct business in the State of Texas that includes the address, phone number, and name of the contact person for each location.

**b. Vehicle Lease Facilitator's License Application**

- verification of the criminal background of each owner and officer of the applicant, if applicable;

- the fee required by law for each type of license required;
- a copy of each assumed name certificate on file with the appropriate recording entity, such as the Office of the Secretary of State or the county clerk;
- a sample copy of the vehicle lease agreement between each of the vehicle lessors the lease facilitator represents, and the lessee;
- a sample copy of the required fee disclosure statement regarding fees paid by a vehicle lessor to the vehicle lease facilitator for the facilitation of a vehicle lease or a statement that no such fees were or will be paid;
- a list of all vehicle lessors, including names and addresses, for whom any vehicle lease facilitator solicits or procures a lessee. The vehicle lease facilitator shall update the list upon renewal of a license and within 10 days of the addition of any vehicle lessor to this list; and
- a copy of the representation agreement between the vehicle lease facilitators and each vehicle lessor.

**8.6 Premises Requirements.** A vehicle lessor or vehicle lease facilitator operating within the State of Texas must have a permanent and established place of business at each location where vehicles are leased or offered for lease from which, in good faith, business is conducted, and records are kept. Requirements for the physical location include:

- a. A structure of sufficient size to accommodate the business, equipped with a desk and chairs and a working telephone number listed in the name under which the vehicle lessor or lease facilitator does business;
- b. The office must be located in a building with connecting exterior walls on all sides and may not be located within a residence, apartment, hotel, motel, or rooming house;
- c. The physical address of the office must be recognized by the U.S. Postal Service and capable of receiving U.S. mail.
- d. The office must comply with all local zoning ordinances and deed restrictions;
- e. Portable-type office structures may qualify as an office only if the structure meets the same requirements as above and is not a readily moveable trailer or other vehicle;
- f. A sign which sets out the business hours the office will be open to the public;

- g. The licensed premises must have a permanent business sign that is readable by the passing public. The sign should show the name under which the vehicle 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. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.
- h. A vehicle lease facilitator must have an established and permanent place of business which is physically located within the State of Texas.
- i. A vehicle lessor or vehicle lease facilitator may not office in a financial institution or a dealership unless that vehicle lessor or vehicle lease facilitator is a bona fide employee or legal subsidiary of the financial institution or dealership, or is an entity wholly owned by the financial institution or dealership.
- j. A deed for the premises, or if the vehicle lessor or vehicle lease facilitator conducts business from a location that he/she does not own, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. Any premises lease agreement must be on a properly executed form containing at a minimum:

  - The name of the landlord of the premises and the name of the licensee as the tenant;
  - The street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application; and
  - The period of time for which the premises lease is valid.

**8.7 Business Hours.** Any vehicle lessor or lease facilitator within Texas must be open to the public during working hours that 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 TxDMV who may wish to inspect records. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

**8.8 Sharing Office Structures.** One or more licensed vehicle lessors or vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each person engaged in business as a vehicle lessor or vehicle lease facilitator must have:

- a. a separate desk;
- b. a separate working telephone number listed in the vehicle lessor or vehicle lease facilitator's business name or assumed name;
- c. a separate right of occupancy, and
- d. a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.

**8.9 More Than One Location.** Vehicle lessors are required to obtain a license for their primary location. Vehicle 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 vehicle 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 vehicle lease facilitator who operates in this state must have a separate license for each business location.

**8.10 Premises Requirements for Out of State Vehicle Lessors.** If a vehicle lessor does not deal directly with the public to execute leases and is licensed at a location outside of this state, then the physical location is acceptable if each vehicle lessor at a business location has a separate desk and chairs; a separate telephone number listed in the business name or assumed name under which the vehicle lessor conducts business; and a sign showing the name under which the vehicle lessor conducts business that is readable by the general public and contains letters at least six inches in height. A deed or a lease for the business location, continuous for the same period of time for which the license will be issued. Any premises lease agreement must contain the names of the landlord and the vehicle lessor as tenant; a legal description of the property or street address; and the period of time for which the lease is valid.

**8.11 Records Required to be Kept by Vehicle Lessors and Lessees.** Vehicle lessors and vehicle lease facilitators are required to keep accurate records on every motor vehicle leased. Licensees are required to cooperate and assist a TxDMV 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 and/or suspension or revocation of the license.

**8.12 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 TxDMV 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 24 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, TxDMV representatives may request copies of records from a licensee by certified mail, fax or by electronic mail. A licensee must provide those records within 15 days of the received request.

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

- Names, addresses and telephone number of the vehicle lessor and lessee subject to the transaction;
- Names, addresses, telephone number, and license number 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, as well as the franchise license number of the dealer if the vehicle involved in the transaction is a new motor vehicle;
- A complete description of the vehicle including VIN, make, model, color, etc.;
- The amount of fee paid to the vehicle lease facilitator or a statement that no fee was paid;
- 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 vehicle lessor bought the vehicle from the dealer;
- Copy of the vehicle lease contract;
- Copy of the front and back of the manufacturer's statement of origin, manufacturer's certificate of origin, or the title of the vehicle involved in the transaction, if the vehicle is new.

**8.14 Advertising Records to be Kept.** Vehicle lessors and lease facilitators 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 TxDMV personnel as required.

**8.15 Subject to Advertising Rules.** Vehicle lessors and vehicle lease facilitators are must adhere to the same advertising rules and regulations as motor vehicle dealers. This includes the TxDMV Rules and the Federal Trade Commission advertising rules, along with any other federal rules involving leases.

**8.16 Title Assignments.** All certificates of title, manufacturer's certificates of origin or other evidence of ownership for vehicles which have been acquired by a vehicle lessor for lease must be properly titled to the vehicle lessor by the selling dealer. Only vehicles being sold to a vehicle 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.

**8.17 No Fees from Dealers.** Vehicle lessors and vehicle lease facilitators may not accept a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle. This prohibition does not include any adjustment in the purchase price for a leased vehicle.

**8.18 No Fees to Unlicensed Persons.** Vehicle lessors may not pay a fee to another person for finding potential lease customers, unless that person is a licensed vehicle lease facilitator who also has a valid letter of appointment from the vehicle lessor. 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 vehicle lessor of the vehicle.

**8.19 Letters of Appointment.** Vehicle lessors may use non-employees as vehicle lease facilitators to represent them as facilitators between the consumer lessees and the vehicle lessor. These non-employees must have an appointment in writing which discloses the terms on which the vehicle lease facilitator will facilitate leases for the vehicle lessor. Copies of all letters of appointment issued by the vehicle lessor to the vehicle lease facilitator should be kept by both the vehicle lessor and vehicle lease facilitator.

**8.20 Disclosures in Lease Contracts with Consumer Lessees.** If a vehicle lease facilitator is responsible for soliciting or producing the consumer for the vehicle lessor, then the vehicle lessor must disclose in the consumer's lease contract, that a fee was paid or will be paid to the vehicle lease facilitator for his or her services. 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 Prohibition on Vehicle Lessors.** Vehicle lessors may be subject to civil penalties, or may have their license revoked or suspended if they:

- Fail to notify the department in writing within 10 days of any change, addition, or
- deletion to the list of vehicle lease facilitators with whom the vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing address, physical address, telephone number, or email address.

**8.23 Prohibitions on Vehicle Lease Facilitators.** Vehicle lease facilitators may be subject to civil penalties, or may 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 vehicle lessor;
- Act in the capacity of or engage in the business of a vehicle lease facilitator without a valid license issued by the Motor Vehicle Division and a valid appointment from a vehicle lessor to act on behalf of the vehicle lessor in soliciting prospective lease clients or customers.
- Fail to notify the department in writing within 10 days of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing address, physical address, telephone number, or email address.

**8.24 Prohibitions on Both Lease Facilitators and Vehicle Lessors.** Vehicle lessors and vehicle lease facilitators may be subject to sanctions if they:

- Fail to maintain an established place of business conforming to the requirements of the Department;
- Fail to maintain records as required;
- Fail to permit examination of records or fail or comply with a request for records by a representative of department;
- Fail to comply with advertising requirements;
- Fail to notify the department of a change of address, phone number, email address, name, or ownership within ten days after such change;
- 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, lease, distribution, financing, or insuring of motor vehicles;
- Are convicted of an offense in Occupations Code, Chapter 53 that directly relates to the duties or responsibilities of the licensed occupation;
- Are determined to be unfit to hold a vehicle lessor or vehicle lease facilitator license;
- Allow the use of the license to avoid any provision of Occupations Code, Chapter 2301;
- Willfully omits material information or makes a material misrepresentation on documentation filed with the TxDMV;
- Accept a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle, or otherwise fail to comply with fee restrictions;

**8.25 Vehicle 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 vehicle lessor from either the vehicle lessor or the lessee, but not from a dealer.

**8.26 Appointments of Vehicle Lease Facilitators.** A lease facilitator may accept appointments from more than one vehicle lessor. See §8.19.

**8.27 Required Lemon Law Notice to Lessees.** Vehicle lessors and vehicle 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 enter into a vehicle lease. See page 11-2 for the form.

**8.28 Vehicle Lessors and GDNs.** Vehicle lessors do not need a GDN license to sell vehicles that they own, either to the lessee, or to a duly licensed dealer, either directly or through a licensed wholesale motor vehicle auction. Vehicle lessors are not allowed to buy vehicles from a wholesale auction with their vehicle lessor license. Should a vehicle 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 OPERATIONS

**91 Definition of Conversion and Converters.** According to the Texas Occupations Code, Chapter 2301, a "conversion" means a motor vehicle that has been substantially modified by a person other than the manufacturer or distributor of the chassis of the motor vehicle and *that 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. Consequently, neither converters nor their representatives, or manufacturers are allowed to sell converted products in Texas.

**92 Licenses Necessary.** The licenses needed to lawfully sell such converted products in this class of transaction 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 applicable.

**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."

**93 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 franchised dealer must sell the new motor vehicle. The customer pays the franchised dealer for both the motor vehicle and the conversion work, which is all presented to the customer on one invoice. How the converter is paid for the conversion package is between the converter and the franchised dealer. 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. The converter never appears in the chain of title.

**94 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.*

**95 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.

**96 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. However, the customer must be the one going to the out-of-state dealer or converter, not the reverse. Please note that bidding on a vehicle to be sold to a Texas consumer, including a municipality, is considered sales activity in Texas.

**97 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. A converter is not allowed to sell the new motor vehicle on which their equipment is mounted. Thus, 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.

**98 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.

**99 Alternative Uses of Converted Vehicles by Converters.** On occasion, converters have converted motor vehicles in their stock that they commit to promoting their business and will title these units in the business name of the converter. Under such a circumstance, the sale of the underlying chassis by the franchised dealer to the converter this would constitute a “retail sale”, as the converter was not purchasing for the purposes of resale. If, after some time, the converter no longer wishes to have the converted vehicle, he may sell it privately as would any private citizen is allowed to do under Transportation Code § 503.024(a)(1).

Another scenario could arise where the converter purchased the new underlying chassis from a franchised dealer and the converter also had a secondary business where a converted vehicle was necessary (e.g. towing and recovery services) and the converter took the chassis and added a tow conversion package. The converted vehicle is now a tow truck used in the converter’s other business and titled in that name. The converter is properly licensed to operate the tow service. The converted vehicle is used for that purpose until the business decides to sell the tow truck. The tow truck can be privately sold under the auspices of Transportation Code § 503.024(a)(1) as well. However, the converter cannot circumvent the law and purchase a new underlying chassis from a franchised dealer, convert it, and then turn around and sell it to a buyer. That would be circumventing the law and the converter would be subject to an enforcement action for acting as a dealer without the proper license. The converter’s actions would be an indicator of his/her intent.

**910 Converter Plates.** Converters may 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 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. Converters are required to obtain a vehicle specific number from the TxDMV e-Tags database for these tags. The rules regarding converter temporary tags are similar to the dealer tags as outlined in Dealer Operations Section 4.11. See 4.11(e) for specific reference to converter temporary tags.

## CHAPTER 10.

### ADVERTISING

**10.1 Purpose and Scope.** The objective of the Advertising Rules is to require truthful and accurate advertising practices for the benefit of consumers. The rules also provide a level playing field for all dealers. The Advertising Rules are located in Title 43 of the Texas Administrative Code in Chapter 215, Subchapter H. The rules apply to both new and used motor vehicles unless explicitly stated otherwise.

**10.2 Advertisement.** The definition of an advertisement is: “An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to, a statement or representation made in a newspaper, magazine, or other publication contained in a notice, sign, poster, display, circular, pamphlet, letter; aired on the radio; broadcast on the Internet or television; or streamed via an on-line service.”

*What is an Advertisement?*

**“Advertisement” means an oral, written, graphic, or pictorial statement or representation made in the course of soliciting business.” § 215.244(1)**

Newspapers	Displays	Pamphlets
Magazines	Circulars	Letters
Notices	Direct Mail	Banners
Signs	Radio	Soap Signs
Posters	Internet	Business Cards
Flyers		Television

**Does not include an in-person oral communication by a dealer's employee with a prospective purchaser.**

The Advertising Rules include the general prohibition as well as the specific rules that address certain forms of advertising.

**10.3 General Prohibition.** A person advertising motor vehicles must not use false, deceptive, unfair, or misleading advertising. Advertised representations must not convey a mistaken impression. The following are two examples of misleading advertisements:

# State-Wide Ordered Vehicle Liquidation This is the real deal.

No it's not.

THIS IS FALSE AND MISLEADING - § 215.242

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## **TEXAS' OFFICIAL UNCLAIMED VEHICLE EVENT**

**DEPARTMENT OF UNCLAIMED VEHICLES  
TO LIQUIDATE OVER 225 CARS, TRUCKS,  
VANS AND SUVs DURING THE NEXT 4**

There is no such event. There is no "Department of Unclaimed Vehicles".  
THIS IS FALSE AND MISLEADING - § 215.242

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**10.4 Availability of New Motor Vehicles.** The advertisement must set forth the number of motor vehicles available at the advertised price, if a price is advertised, at the time the advertisement is placed or the dealer can show that it has the number of motor vehicles available to meet the reasonable expectable public demand based on prior experience.

If an advertisement pertains to only one specific motor vehicle, then the advertisement must also disclose the motor vehicle's stock number or VIN.

If the dealer does not have possession of a new vehicle at the time an advertisement is placed, the dealer must clearly and conspicuously disclose that fact in the advertisement and state that the motor vehicle may be obtained from the manufacturer, distributor, or some other source.

**10.5 Availability of Used Motor Vehicles.** In order to advertise a used vehicle, the title certificate to the used vehicle must be assigned to the dealer, and the vehicle must be in the dealer's possession at the time the advertisement is placed.

**10.6 Accuracy.** Advertisements shall be accurate, clear, and conspicuous. Advertisements shall not be false, deceptive or misleading. This means all language and terms, including abbreviations, must be used in accordance with their common or ordinary usage and meaning.

Consumers must be able to see, read, and/or hear the information being disclosed in an advertisement. Factors such as size, duration, and location of a disclosure, as well as the background or other information displayed in and advertisement can affect whether the disclosure is clear and conspicuous.

**All Advertised Statements Must Be  
ACCURATE, CLEAR, AND CONSPICUOUS**

**§ 215.246**



SIZE

COLOR

CONTRAST

**“CLEAR and CONSPICUOUS” is defined under § 215.244(6) as being  
of such size, color, contrast, and audibility and is presented so as to  
be *readily noticed and understood*.**

For an internet advertisement, a disclosure may be considered accurate, clear and conspicuous if the viewer highlights, hovers a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure; or only one click on select text or image(s) is required to view the disclosure; and the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in proximity to the information being disclosed.

**10.7 Untrue Claims.** The following words and phrases are prohibited:

- a. Statements such as “write your own deal,” “name your own price,” “name your own monthly payments,” or statements with similar meaning.
- b. Statements such as “everybody financed,” “no credit rejected,” “we finance anyone,” and other similar statements representing or implying that no prospective credit purchaser will be rejected because of his inability to qualify for credit. Certain similar statements are “all applications accepted,” and “no credit application refused”.

Statements such as “financing available,” “let us help,” and “conditional offer of credit” are acceptable, and may be advertised.

- c. Statements representing that no other dealer grants greater allowances for trade-ins unless the dealer can show such is the case, e.g. “highest trade-in allowances,” or “no other dealer gives more for your trade”.
- d. Statements representing that because of its large sales volume, a dealer is able to purchase motor vehicles for less than another dealer selling the same make of motor vehicles, unless the dealer can show such is the case.

**10.8 Layout.** The layout of an advertisement must not convey an erroneous or misleading impression as to which vehicle or vehicles are offered for sale or lease at featured prices. Any necessary qualifications must be clearly, conspicuously, and accurately set forth to prevent misunderstanding. Watch out for the “Big print giveth and the little print taketh away”.

#### **10.9 Dealer Price Advertising; Savings Claims; Discounts.**

- a. **Allowable Excluded Charges.** The advertised price must include all costs and charges for the vehicle advertised, including destination and dealer preparation charges.

THE ONLY CHARGES THAT MAY BE EXCLUDED FROM THE ADVERTISED PRICE ARE TAX, TITLE, LICENSE, AND A FEE OR CHARGE THAT IS ALLOWED OR PRESCRIBED BY LAW. This includes the documentary fee and state inspection.

- b. **May Not Qualify Advertised Price.** A qualification may not be used when featuring a sales price for a motor vehicle such as “with trade,” “with dealer-arranged financing,” “rebate assigned to dealer,” or “with down payment”.
- c. **Featured Price.** The featured price of a new or used motor vehicle must be the price for which the vehicle will be sold to **any retail buyer**.
- d. **Internet Price.** The terms “Internet Price,” e-price,” or any similar terms that indicate or create the impression that there is a different or unique sales price for an online or Internet consumer or transaction are prohibited.
- e. **Savings Claims; Discounts.** A savings claim or discount offer can only be advertised on a **NEW** motor vehicle. The advertisement must show the difference between the dealer’s sale price and the manufacturer’s, distributor’s, or converter’s total suggested list or retail price. **NO PERSON MAY ADVERTISE A SAVINGS CLAIM OR DISCOUNT OFFER ON A USED MOTOR VEHICLE.**

**f. Statements such as “Up To”.** A savings claim or discount offer must be a specific amount. Statements such as “up to,” “as much as,” “from,” or a range of amounts must not be used when advertising a savings claim or discount offer.

**g. Aftermarket Options.** If an option that is added by a dealer is not a factory-available option, a savings claim may not be advertised on that vehicle. However, a manufacturer’s rebate may still be advertised.

A dealership addendum is to be displayed on the window of a motor vehicle when the dealership installs special features, equipment, parts or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a vehicle for delivery to a buyer.

The dealership addendum should only include items actually added to the vehicle; not warranty information or optional warranties available for an additional charge.

The dealership addendum must disclose that it is supplemental; any added feature, service, equipment, part, or accessory charged and added by the dealership and the retail price therefore; any additional charge to the selling price such as additional dealership markup; and the total dealer selling price.

The dealership addendum form shall not be deceptively similar in appearance to the Monroney label.

**h. Featured Savings.** The featured savings claim or discount offer for a new motor vehicle must be the savings available to everyone.

**i. Savings Breakdown.** If an advertisement includes a savings claim or discount offer, the amount and type of each incentive that makes up the total amount of the savings claim or discount offer must be disclosed.

**j. Acceptable Formats.** The following are acceptable formats for advertising savings claims and discount offers with and without a sales price.

(1) If a savings claim or discount offer includes only a **dealer discount**, that incentive must be disclosed as a deduction from the MSRP.

**Dealer Discount with Sales Price:**

MSRP/DSRP	\$20,000
Less Dealer Discount	<u>1,000</u>
<u>Sales Price</u>	\$19,000

**Dealer Discount without Sales Price:**

**"\$1,000 Discount Off MSRP/DSRP"**

- (2) If a savings claim or discount offer includes only a manufacturer's customer rebate, that incentive must be disclosed as a deduction from the MSRP/DSRP.

**Manufacturer's Customer Rebate with Sales Price:**

Advertised Price	\$18,000
Less Rebate	<u>500</u>
Sales Price	\$17,500

**Manufacturer's Customer Rebate without Sales Price:**

"\$500 Rebate Off MSRP/DSRP"

- (3) If a savings claim or discount offer includes both a manufacturer's customer rebate and a dealer discount, the incentives must be disclosed as a deduction from the MSRP/DSRP.

**Manufacturer's Customer Rebate & Dealer Discount with Sales**

**Price:**

MSRP/DSRP	\$20,000
Less Rebate	500
Less Dealer Discount	<u>500</u>
Sales Price	\$19,000

**Manufacturer's Customer Rebate & Dealer Discount without Sales**

**Price:**

"\$1,000 Savings Off MSRP/DSRP (\$500 Rebate & \$500 Dealer Discount

- (4) If a savings claim or discount offer includes a manufacturer's option package discount, that discount should be disclosed above or prior to the MSRP/DSRP with a total sales price of the motor vehicle before option discounts. Any additional savings or discounts should then be disclosed below the MSRP/DSRP, as applicable.

**Manufacturer's Option Package Discount with Sales Price:**

Total Motor Vehicle Plus Options	\$10,995
Option Package Discount	1,000
MSRP/DSRP	9,995
Less Rebate	500
Less Dealer Discount	<u>500</u>
Sales Price	\$8,995

**Manufacturer's Option Package Discount without Sales Price:**

"Total Savings \$2,000 (\$1,000 Option Package Discount; \$500 rebate, and \$500 dealer discount off MSRP/DSRP"

- (5) The calculation of the featured sales price or featured savings claim or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount of the limited rebate and explaining the conditions or restrictions on qualifications for the limited rebate in a statement below the featured sales price or featured savings claim or discount.

MSRP/DSRP	\$20,000
Less Rebate	1,000
Less Dealer Discount	<u>1,000</u>
Sales Price	\$18,000

FIRST TIME BUYERS RECEIVE ADDITIONAL \$500 OFF

- (6) In an internet advertisement with multiple limited rebates available on an advertised new motor vehicle, a dealer may display each limited rebate separately allowing a potential buyer to “click” on the limited rebate to view the sales price after deducting the applicable limited rebate or applicable multiple rebates.

Additional Available Limited Rebates  
 (Click the applicable box or boxes for Sales Price)  
 See Dealer for Eligibility Terms

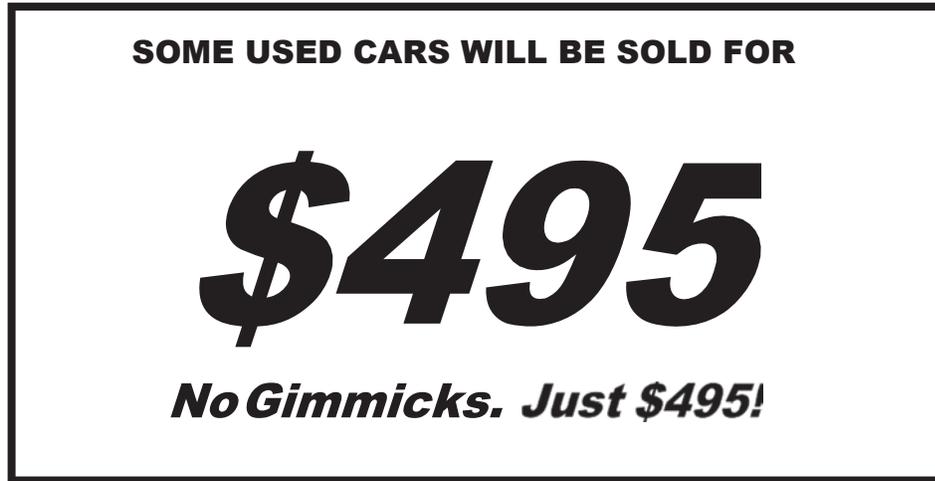
- HISD Teachers Receive Additional \$500 Discount
  - Active Duty Military Receive Additional \$500 Discount
  - Dallas Metro Residents Receive Additional \$500 Discount
  - Loyalty Owner Receive Additional \$500 Discount
  - “X” Financing Receive Additional \$500 Discount
- Sales Price with Selected Discounts \$ \_\_\_\_\_

- (7) If a dealer has added an option that was not obtained from the manufacturer or distributor of the motor vehicle, a dealer discount may not be advertised for that vehicle. If a dealer has added an option obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on a dealership addendum, the dealer may advertise a dealer discount for that motor vehicle if the option is listed, and the difference is shown between the dealer's sales price and the MSRP/DSRP, as applicable, [per the total amount as shown on the Monroney Label], of the vehicle including the option obtained from the manufacturer or distributor.

MSRP/DSRP	\$20,000
Total Dealer Installed Factory Options	1,000
Total	\$21,000
Less Dealer Discount	\$500
Sales Prices	\$20,500

**10.10 Identification.**

- a. **Vehicle Identification.** When the sales price of a motor vehicle is advertised, the model year; make; model line and style or model designation; and whether the vehicle is a used, demonstrator, or a factory executive/official vehicle must be disclosed.



Model Year, Make, Model Line and Style or Model Designation **NOT** Disclosed - § 215.251(a)

- b. **Expressions such as “Loaded”.** Expressions such as “fully equipped,” “factory equipped,” “loaded,” and other such terms must not be used in any advertisement that contains the sales price of a vehicle unless the optional equipment of the vehicle is listed.
- c. **Illustration.** An illustration of a motor vehicle used in an advertisement must be substantially the same as that of the vehicle advertised.

Example: An illustration that is **NOT** substantially the same would be if a Ford F-150, Regular Cab, XL is advertised for sale and the illustration used is that of a Ford F-150, Super Cab, FX4.



ADVERTISED ILLUSTRATION



ACTUAL VEHICLE AVAILABLE

**10.11 Advertising at Cost or Invoice.** The term “dealer’s cost” or other reference to the cost of the vehicle must not be used. This would include a statement such as “you pay what we pay” which is in reference to the cost of the vehicle.

Additionally, the use of the term “invoice” or “invoice price” in advertising must not be used. This would include advertising an illustration of an invoice.

Note: In 1994, the United States Court of Appeals, Fifth Circuit, upheld that the use of the word “invoice” in automobile advertisement was inherently misleading.

**10.12 Trade-In Allowances.** The rule states that **no guaranteed** trade-in amount or range of amounts shall be used in advertising. Additionally, an advertisement shall not state an amount or range of amounts for trade-in assistance or advertise that an offer is any specific amount or range of amounts over blue book value, black book value, or use any other similar language indicating there is an established retail value or starting price point for a used motor vehicle.

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Example: “Get A Minimum of \$2,000 For Your Trade,” “130% Of NADA Book Value for Your Trade,” or “\$1,000 to \$3,000 Guaranteed Trade-In” is a guaranteed trade-in amount or range of amounts, and can NOT be advertised.

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A “Push, Pull or Drag” advertisement is permissible if no guaranteed trade-in amount or range of amounts is stated.

**10.13 Used Vehicles.** When a used vehicle is advertised, the vehicle must be identified as “used” or “pre-owned”.

A used vehicle must not be advertised in any manner that creates the impression that it is new.

Terms such as “program car,” “special purchase,” “factory repurchase,” or other similar terms cannot be used to identify a motor vehicle as used.

**10.14 Demonstrators, Factory Executive/Official Motor Vehicles.** When these vehicles are advertised, the advertisement must clearly and conspicuously identify the vehicle as a demonstrator or factory executive/official vehicle.

These are new motor vehicles as they have not been subject to a retail sale, as such, these vehicles may not be advertised or sold by anyone other than a dealer franchised and licensed to sell that line make of new motor vehicle.

A “Demonstrator” is defined as a new motor vehicle currently in the dealer’s inventory that is used or has been used primarily for test drives by customers and other dealership purposes and so designated by the dealership.

A “Factory Executive/Official Vehicle” is defined as a new motor vehicle that has been used exclusively by an executive or official of the dealer’s franchising manufacturer, distributor, or their subsidiaries.

**10.15 Auction.** Terms such as “auction,” “auction special,” or other terms with similar meaning must be used only in connection with a vehicle offered or sold at a bona fide auction.

“Auction” is defined as “the sale of any property by competitive bid”. A dealer may hold an auction of his inventory at the dealership and advertise the sale as an auction if a licensed auctioneer, licensed by the Texas Department of Licensing and Regulation, conducts the auction. The advertisement must include the auctioneer’s name and license number.

**10.16 Free Offers.** Don’t offer something as “free” if it is not really “free”. A free offer should not become part of the negotiations.

**FREE OFFERS § 215.256**

**IS IT  
REALLY  
FREE?**



**????**

**CAN THE VEHICLE BE PURCHASED OR LEASED  
FOR A LESSER SALES PRICE WITHOUT THE FREEBIE?**

**HAS THE PRICE OF THE VEHICLE BEEN INCREASED  
TO COVER ALL OR PART OF THE COST OF THE FREEBIE?**

**If you answer ‘yes’ to either of the above questions, then the  
“free” offer is NOT “free”**

**DOES THE ADVERTISEMENT CLEARLY AND CONSPICUOUSLY  
DISCLOSE THE CONDITIONS UNDER WHICH THE FREE OFFER  
MAY BE OBTAINED?**

**10.17 Authorized Dealer.** The term “authorized dealer” or a similar term must not be used unless the advertising dealer holds **both** a franchise license and a dealer license to sell the vehicle line make the dealer identifies itself as “authorized” to sell.

**10.18 Rebate and Financing Rate Advertising by Dealers.**

- a. If a dealer advertises an offer of a manufacturer’s or distributor’s rebate, interest or finance charge reduction, or other financial inducement or incentive, and the dealer contributes to the program, the advertisement must disclose that the dealer’s contribution may affect the final negotiated price of the vehicle.
- b. An advertisement containing an offer of an interest or finance charge incentive that is paid for or financed by the dealer rather than the manufacturer or distributor, must disclose that the dealer pays for or finances the interest or finance charge rate reduction, the amount of the dealer’s contribution in either a dollar or percentage amount, and that such arrangement may affect the final negotiated price of the vehicle.
- c. An offer to pay, promise to pay, or tender cash to a buyer of a motor vehicle as in a rebate or cash back program may not be advertised, unless it is offered and paid in part by the motor vehicle manufacturer or distributor directly to the retail purchaser or assignee of the retail purchaser.

**10.19 Manufacturer/Distributor Sales; Wholesale Prices.** A motor vehicle must not be advertised for sale in any manner that creates the impression that it is being offered for sale by the manufacturer or distributor of the vehicle.

An advertisement must not use the manufacturer’s name or abbreviation in any manner calculated or likely to create an impression that the vehicle is being offered for sale by the manufacturer or distributor.

Terms such as “factory sale,” “factory approved,” “factory sponsored,” “manufacturer sale,” “distributor sale,” “fleet prices,” “wholesale prices,” or similar terms that indicate sales other than retail sales from the dealer must not be used.

**10.20 Bankruptcy/Liquidation Sale.** A sale may not be advertised with the phrase “going out of business,” “closing out,” “shutting doors forever,” “liquidation sale,” “bankruptcy sale,” or similar phrases indicating that a dealership is ceasing business unless the dealership is closing its operations. A person who advertises a liquidation sale, auction sale, or going out of business sale shall state the correct name and permanent address of the owner of the business in the advertisement.

A new or used motor vehicle liquidation sale, e.g. “Used Vehicle Liquidation Event,” may not be advertised when the dealer is not ceasing the business of selling new or used vehicles. One exception for new vehicles only is when production of a model year has

stopped and the new motor vehicle dealer does not have any pending orders for that model year. A dealer may then advertise a liquidation sale of those model year vehicles that still remain in the dealer's inventory.

**10.21 Lowest Price Claims.** A lowest price claim, best price claim, best deal claim, or other similar superlative claims must not be used in advertising. The only exception is if the dealer makes the superlative claim applicable only to that dealer, e.g. "Our lowest price of the month on any in stock new Explorer XLT".

A dealer may advertise a "meet or beat" guarantee. If a cash amount is advertised with the guarantee, then the advertisement must clearly and conspicuously disclose the conditions and requirements necessary in order for a person to receive the offer or guarantee. Offering a beat guarantee does not mean that the advertising dealer has, for example, the lowest price.

**10.22 Sales Payment Disclosures.** This rule is intended to ensure that all important terms of a consumer credit transaction (closed-end credit) appear in advertisements. The rule incorporates the requirements set forth by The Federal Reserve Board Regulation Z that implements the Truth in Lending Act.

If an advertisement contains a "triggering term," then the advertisement also must include other major terms. The statement, "no down payment," does not trigger additional disclosure. Additionally, the APR is not a triggering term.

**Sales Payment Disclosures § 215.263**

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**Triggering Terms:**

- AMOUNT OF A DOWN PAYMENT % OR \$
- AMOUNT OF ANY PAYMENT % OR \$
- NUMBER OF PAYMENTS
- PERIOD OF REPAYMENT
- AMOUNT OF ANY FINANCE CHARGE

**Must Include:**

- AMOUNT OR % OF DOWN PAYMENT
- TERMS OF REPAYMENT (# MOS & AMT/MONTH) INCLUDING ANY BALLOON PAYMENT
- ANNUAL PERCENTAGE RATE OR APR
- THE AMOUNT OF ANNUAL PERCENTAGE RATE, IF INCREASED, AFTER CONSUMMATION.

The term of repayment from which the amount per month can be determined may be expressed using unit cost (monthly charge per \$1,000 financed).

Example: The unit cost based on 2.9% APR financing for 36 months is \$29.04 per \$1,000 financed.

### **10.23 Lease Advertisements/Lease Payment Disclosures.**

**a. Lease Advertisement.** Lease advertisements must clearly and conspicuously disclose that the advertisement is for the lease of a vehicle. Terms or phrases that do not use the term “lease” do not constitute adequate disclosure of a lease.

**b. Lease Payment Disclosures.** This rule is intended to ensure that all major terms of a consumer lease are included in the advertisement. The rule incorporates the requirements set forth by The Federal Reserve Board Regulation M that implements the Consumer Leasing Act.

If an advertisement contains a “triggering term,” then the advertisement also must include certain specific disclosures.

### **LEASE PAYMENT DISCLOSURES 215.264(a) (Regulation M)**

#### **Triggering Terms:**

**A amount of any payment, or**

**A statement of any capitalized cost reduction, or**

**A ny other payment required to signing or delivery. A statement that no payment is required.**

#### **Must clearly and conspicuously include:**

**A statement that the transaction advertised is a lease;**

**The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;**

**The number, amounts, and due dates or periods of scheduled payments under the lease;**

**A statement of whether or not a security deposit is required; and**

**A statement that an extra charge may be imposed at the end of the lease term w here the lessee’s liability, if any, is based on the difference between the residual value and realized value. (If open-end lease)**

A “closed-end lease” is a lease in which the lessee is not responsible for the difference if the actual value of the vehicle at the scheduled end of the lease is less than the residual value.

An “open-end lease” is a lease in which the amount the lessee owes at the end of the lease

term is based on the difference between the residual value of the leased property and its realized value.

**c. Other Considerations in Lease Advertising.**

1. Except for the periodic payment, a reference to a charge that is part of the total amount due at consummation or delivery cannot be more prominent than the total amount due at consummation or delivery.
2. If a vehicle lessor provides a percentage rate in an advertisement, a notice stating that “this percentage may not measure the overall cost of financing this lease” must accompany the rate disclosure. The term “annual percentage rate,” “annual lease rate,” or any equivalent term must not be used.
3. A multi-page advertisement or an electronic advertisement (such as an advertisement appearing on an internet website), that provides a table or schedule of the required disclosures is considered a single advertisement if, for lease terms that appear without all the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.
4. A merchandise tag stating any “triggering term” (see paragraph 10.24 (b) – Lease Payment Disclosure) may comply with the required disclosures by referring to a sign or display prominently posted in the vehicle lessor’s place of business that contains a table or schedule of the required disclosures.
5. An advertisement made through television or radio stating any “triggering term” must state in the advertisement: that the transaction is a lease; the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation; and the number, amounts, and due dates or periods of scheduled payments under the lease. The advertisement also must list a toll-free telephone number along with a reference that such number may be used by consumers to obtain the required disclosure information, or direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and date of the publication, with a statement that the required disclosure information is included in the advertisement.

The toll-free telephone number must be available for no fewer than ten days, beginning on the date of the broadcast. The vehicle lessor must provide the required disclosure information orally or in writing upon request. The written advertisement must be published beginning at least three days before and ending at least ten days after the broadcast.

**10.24 Fleet Prices.** Terms such as “fleet prices,” “fleet sales,” or other terms implying that individual retail customers will be afforded the same price and/or discount as multi purchase commercial businesses cannot be used in advertising. These terms are prohibited because there are no set fleet prices. Individual fleets negotiate prices based on

volume and other factors similar to any other retail sale. Representing fleet prices is illusory and offers no genuine benchmark for savings.

**10.25 Bait Advertisement.** Bait advertisements are alluring but insincere offers to sell a product that the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised product in order to sell some other product at a higher price or on a basis more advantageous to the advertiser. The primary aim of a bait advertisement is to obtain leads to persons interested in buying merchandise of the type advertised. Bait advertisements are prohibited.

**10.26 Internet Advertising.** The Internet is another form of media to which all advertising rules apply. A person 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 a vehicle from someone other than the license holder.

The advertising rules also apply to auctioneer or associate auctioneer advertising an auction.

The law allows those dealers who advertise on the Internet directly through their own websites to sell a vehicle to those persons who respond to that advertisement without having those people come to their dealership. Responses to non-Internet ads still require the potential buyers to visit the dealership at least once to avoid the off-site sale rule.

## CHAPTER 11.

### LEMON LAW REQUIREMENTS

**11.1 Lemon Law or Warranty Performance Obligations.** The Texas Lemon Law applies to new vehicles purchased from Texas franchise dealers or leased from licensed vehicle lessors. Legislation allows vehicles bought new in other states and registered in Texas to be eligible for relief. Active duty military service members stationed in Texas are also eligible to file for lemon law relief for eligible vehicles. 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 on the TxDMV web site.

**11.2 Notice at Time of Sale.** When a franchise 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 vehicle owner's manual. The approved notice that the dealer is required to give the consumer at the time of sale may be found on page 11-2. Copies of the notice may be downloaded from the TxDMV web site and printed on yellow paper.

**11.3 Dealer Must Post Notices.** In addition to handing the consumer, the notice mentioned in 11.2 above, all franchise dealers are required to post a lemon law notice in a conspicuous place in the cashier area of the service department. Failure to have such notice posted may result in an enforcement action. The approved notice that the dealer is required to post in the cashier area may be found on page 11-3. Copies of the notice are available from the Lemon Law Section of the Enforcement Division, or may be downloaded from the TxDMV web site and printed on yellow paper.

**11.4 Reselling Lemons.** When a dealer buys a vehicle that was a manufacturer buyback ordered by the agency, 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 first retail sale. There is also a disclosure statement issued by the manufacturer stating the vehicle was repurchased or replaced by the manufacturer under the Texas law. 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 TxDMV after the retail sale, are violations for which the dealer would be responsible. The disclosure statement must be on a form approved by TxDMV, or on the form provided by TxDMV.

### **Notice of Complaint Procedure for New Vehicle Owners and Lessees**

The Texas Legislature enacted the “lemon law” (Texas Occupations Code Subchapter M) 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 repurchase of the vehicle or a replacement vehicle if the following conditions are met:

1. the new motor vehicle 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;
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);
4. the owner or lessee gives the manufacturer, distributor or converter written notice of the defect and at least one opportunity to repair it;
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 a filing fee of \$35 is filed with the Texas Department of Motor Vehicles, Enforcement Division NOT LATER THAN SIX MONTHS AFTER the earliest of: (a) the expiration of the warranty term; or (b) 24 months after the delivery date of the vehicle; or (c) 24,000 miles after the delivery date of the vehicle. (In general, mileage limitations do not apply to towable recreational vehicles).

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 Motor Vehicles, Enforcement Division may be able to assist you.

The Texas Occupations Code, § 2301.204 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.

## NOTICE TO BUYER

### TEXAS LEMON LAW TEXAS OCCUPATIONS CODE, CHAPTER 2301, SUBCHAPTER M

The Texas “LEMON LAW” provides simple and inexpensive help for consumers who own defective new vehicles. Owners or lessees of new vehicles, including towable recreational vehicles (TRVs), who have repeated warranty repairs on their vehicles, may file a complaint with the Enforcement 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 a “REASONABLE NUMBER OF ATTEMPTS” to repair the defect or condition (the number of repair attempts required depends on the nature of the defect). Mileage limitations generally 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 Enforcement 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 Enforcement Division for more information or for assistance concerning warranty repair problems. You may also contact the department’s main line at **(512) 465-3000** or **1-888-368-4689**.

(Texas Occupations Code, § 2301.613 requires this notice to be conspicuously posted in the cashier area of the franchised dealer’s service department.)

Revised 03/2018

## **CHAPTER 12.**

### **THE ADMINISTRATIVE COMPLAINT PROCESS**

**IT IS VITALLY IMPORTANT THAT A DEALER ALWAYS HAVE ITS  
CURRENT MAILING ADDRESS ON FILE WITH THE TEXAS DEPARTMENT  
OF MOTOR VEHICLES (TxDMV) AND TO READ AND TIMELY RESPOND  
TO ALL CORRESPONDENCE FROM THE TxDMV**

- **Legal correspondence from the TxDMV is sent to the mailing address reported by the Dealer on its most recent license application or amendment. This is referred to as the dealer’s “last known address.” This is the address at which the TxDMV is legally required to serve notice when corresponding with a dealer regarding a complaint filed against the dealer.**
- **Texas law requires a dealer to report any change of mailing and/or physical address to the TxDMV within 10 days of the change.**
- **Legal correspondence mailed to a dealer at its last known address is considered valid legal service, even if the dealer’s address has changed (and was not reported to the TxDMV.) The administrative complaint process will continue, even though a dealer may not actually receive the legal documents sent to the outdated address.**
- **Failure to have a current mailing address on file with the TxDMV may result in the dealer not receiving important legal correspondence. If a dealer does not know about an ongoing administrative complaint and fails to timely respond to legal correspondence, the ultimate result could be the imposition of a substantial civil penalty and/or revocation of the dealer’s license without the dealer’s actual knowledge.**
- **Even if a dealer keeps its mailing address current with the TxDMV and it does not accept service or open and timely respond to legal correspondence, the administrative complaint process will continue without any defense or submission of mitigating factors that can substantially benefit the dealer.**
- **A dealer who does not update its mailing address with the TxDMV, or fails to timely respond to correspondence risks forfeiting valuable legal rights in the administrative complaint process.**

**IT IS BENEFICIAL TO WORK WITH THE TxDMV IF A COMPLAINT IS  
FILED AGAINST YOUR DEALERSHIP. MOST COMPLAINTS ARE  
SETTLED INFORMALLY ONCE A DEALER CONTACTS TxDMV STAFF IN  
RESPONSE TO CORRESPONDENCE RECEIVED FROM  
THE DEPARTMENT.**

**12.1 Investigation of Complaints Received.** The TxDMV Enforcement Division receives, investigates, and, when appropriate, initiates legal proceedings as a result of, complaints against motor vehicle dealers in Texas. The TxDMV requires that all complaints be submitted online through the department's website ([www.txdmv.gov](http://www.txdmv.gov)) and will not act on a verbal complaint. Individual cases are created for each complaint received, but multiple complaints against the same dealer may be combined into one multi-issue case. Every complaint is investigated by a TxDMV investigator who collects evidence, interviews witnesses, and, when necessary, makes a site visit to the dealer's licensed location.

While thousands of cases are opened each year, only about 20 percent progress to a formal contested administrative proceeding. The vast majority of cases are closed informally. Cases may be closed informally when: (1) no violation was committed; (2) there is insufficient evidence to proceed; (3) TxDMV lacks of jurisdiction over the issue or; (4) there is a successful post-complaint mediation between the dealer and consumer facilitated by TxDMV staff. Additionally, many minor or first time violation cases are closed informally by the issuance of a written warning letter to the dealer.

Completed investigations are forwarded to the Enforcement Division Chief Investigator for review. Investigations containing sufficient evidence to proceed are forwarded to a TxDMV attorney for final review. The attorney reads the case notes and considers the evidence and facts gathered during the investigation, and then determines to either close the case informally, or to initiate the formal contested case process. If a formal contested case is initiated, the attorney will prepare a Notice of Department Decision (NODD) charging the dealer with violating the law. The NODD will be mailed to the dealer's last known mailing address reported to the TxDMV. In a formal contested case proceeding, a dealer is referred to as the "Respondent" and the TxDMV is referred to as the "Petitioner".

**12.2 Notice of Department Decision.** For violations occurring on or after September 30, 2013, the attorney will issue a NODD detailing the alleged violation(s) committed by a dealer and will assess a civil penalty and/or other sanction; including revocation of the dealer's license. If the Respondent wants to either contest the allegations or reserve the right to settle the case, the Respondent must send the attorney a copy of the Request for Administrative Hearing Form that is attached to the NODD. TxDMV must receive the form within 26 days of the date of the Notice of Department Decision. The Respondent may also choose to pay the civil penalty and accept any other sanctions included in the NODD by following the instructions provided in the NODD packet. Upon receipt of a Request for Administrative Hearing Form, the TxDMV will either set the matter for hearing in Austin before an Administrative Law Judge (ALJ) at The State Office of Administrative Hearings (SOAH), or contact the Respondent to negotiate an informal settlement. A Notice of Hearing will be sent to the Respondent if negotiations do not result in a settlement.

The civil penalty and/or sanctions described in the NODD become final and a Final Order is mailed to the Respondent's last known address if there is no response within 26 days from the date the NODD is mailed. The Respondent may then file a Motion for Rehearing within 25 days after the date the Order is signed. The attorney can negotiate a settlement

with the Respondent if the rehearing is granted. The Respondent may appeal the Final Order in state district court if the rehearing request is denied.

**12.3 What to do when you receive a NODD or other legal correspondence from the TxDMV.** DO NOT IGNORE a NODD or any other legal correspondence from the TxDMV. A dealer should either seek private legal counsel or call the TxDMV attorney named in the correspondence to discuss the contents of the communication as soon as possible. The worst thing a dealer can do is ignore the correspondence. Most cases result in negotiated settlements with reduced civil penalties and most cases do not result in revocation of the dealer's license.

The first document a dealer is likely to receive when a complaint is filed is a letter from an investigator requesting copies of dealer records pertaining to the complaint. Failure to timely or fully respond to the request for records is in itself a violation of law and may result in additional sanctions. Provide the requested documents to the investigator in a timely matter according to the instructions on the letter. Call the Enforcement Division at (512) 465-4204 if there is a doubt as to the authority of the investigator making the request.

NODDs and other important documents are mailed to the dealer's last known address on record with the TxDMV. Documents are usually sent by certified mail return receipt requested. Certified mail that is returned to the TxDMV marked "refused" or with similar postal markings indicating the Respondent refused to accept or did not pick up the mail is considered proper legal service and the administrative complaint proceeding will continue.

**12.4 SOAH Hearing.** A hearing will be held at SOAH if the case is not settled before the scheduled hearing date. The ALJ will issue a Proposal for Decision (PFD) at the conclusion of the hearing. The PFD will be presented to the final order authority, either the TxDMV board or the board's delegate, for an issuance of a Final Order. See FAQs below for more details about the SOAH hearing.

**12.5 Civil Penalties and Sanctions.** The maximum administrative civil penalty and other sanctions the TxDMV can impose on a dealer are established by Texas law. The actual penalty amount and other sanction assessed depend on the nature of the violation(s), facts of the case, the dealer's previous violation history, any harm to consumers, and any action by the dealer to minimize or mediate such harm. If you enter into settlement discussions with the TxDMV attorney, you will have an opportunity to bring up facts that dispute an allegation, or mitigate any damage done which may warrant a lower penalty. License revocation is a very serious consequence. Revocation is only imposed when it is required by law; such as when a dealer's business location does not meet legal requirements for a licensed premise, or when warranted by the circumstances and nature of the violation(s) committed by a dealer.

## **Frequently Asked Questions:**

### ***I just received a NODD, what is this?***

The Enforcement Division filed the Notice of Department Decision initiating a proceeding because of a complaint that you (the Respondent) may have violated a law the TxDMV enforces. The NODD identifies the alleged violations and possible sanctions. The cover letter to the document outlines the immediate steps you should take.

### ***What do I do now?***

Follow the instructions outlined in the NODD if you do not wish to contest the allegations and pay any civil penalty and/or accept any other sanction contained in the document.

In order to contest the allegations or to discuss a settlement of the case the TxDMV **must receive** a Request for Administrative Hearing (form included in the NODD packet) within 26 days of the date of the Notice of Department Decision. Instructions for sending a Request for Administrative Hearing are contained in the NODD. The penalty and/or sanctions stated in the NODD become final if a Request for Administrative Hearing is not received by the TxDMV within the stated time period. A Final Order will be issued incorporating the penalty and/or sanctions imposed. Sanctions may include revocation of your license.

### ***Do I have to stop running my business?***

You may continue to operate under your dealer license as usual unless you hear otherwise from the TxDMV. You can also file a renewal application during the pendency of an administrative complaint proceeding. It is, of course, recommended that you cease any activity that is alleged as a violation in the NODD.

### ***Will I pay a fine (civil penalty)?***

Imposition of an administrative penalty depends upon several factors including the nature of the allegation(s), any prior violations, efforts to mitigate, and extenuating circumstances. You have the opportunity to negotiate any stated civil penalty with the assigned attorney.

### ***What if I don't want to settle and pay a civil penalty?***

You are not required to settle with the attorney. You have the right to appear at a hearing and present your case to an administrative law judge. At a hearing you may present evidence to dispute the allegations or to provide evidence that could mitigate the harm caused. The judge will consider whether you committed the alleged violation(s) and what,

if any, civil penalty and/or sanction should be recommended to the TxDMV final order authority. To be afforded an administrative hearing the TxDMV **must receive** a Request for Administrative Hearing (form included in the NODD packet) within 26 days of the date of the Notice of Department Decision.

All hearings are held in Austin, Texas at the State Office of Administrative Hearings. The SOAH address and telephone number are contained in the Notice of Hearing that will be sent to your last known address along with the date and time of your hearing. Large cases that involve many witnesses are occasionally moved outside of Austin.

### ***Should I hire a lawyer?***

While the administrative hearing is not overly complicated, it is a formal legal proceeding conducted under established rules and procedures. The TxDMV will be represented by an attorney. The TxDMV attorney will not be able to provide you with legal advice. Many Respondents appear without an attorney. The choice to appear with an attorney, or pro se, to represent yourself, is yours to make.

### ***Can I find out more about the allegations listed in the NODD before the hearing?***

Yes, the attorney will, if asked, send documents and records from the case file for you to examine. You may also request that the SOAH ALJ hold a pre-hearing conference. At that conference, the judge will set dates by which copies of evidence must be provided to the other party and sort out other procedural matters. This process is called “discovery,” which includes the right to take depositions of the state’s witnesses or formally request copies of the state’s documents and other evidence. The TxDMV attorney has the same right. Some things you request may be exempt from disclosure by law, but the judge will decide what can and cannot be discovered.

### ***Can I change the hearing date?***

The TxDMV attorney will likely agree to a first time continuance if contacted. If you cannot reach an agreement to continue the case, or you want a second or an additional continuance, you should file a Motion for Continuance at SOAH. Unless it is an emergency, you should not wait until just before the scheduled hearing date to request a continuance.

### ***What exactly happens at a hearing?***

Administrative hearings are relatively informal, though they do follow statutory rules of evidence and procedure. If you do not have an attorney, the judge will allow you to ask questions throughout the hearing. The TxDMV attorney will present evidence first by calling witnesses and presenting documents. You will have a chance to object to the documents and to question each witness. Then you will present your case. You should

make sure all of the witnesses you intend to call and all documents you intend to introduce into evidence are brought to the hearing. Under the rules of evidence, you cannot give hearsay testimony. That means you are not permitted to tell what a person said when that person is not present at the hearing to be questioned by the TxDMV attorney. In addition, you should bring original documents to plan to use, if you have them, and at least two copies of the documents. You will give one copy to the judge and the other copy to the TxDMV attorney. No final decision is made on the day of the hearing.

### ***So when do I get a decision?***

After the hearing, the judge may or may not ask you and the attorney to prepare written closing arguments. The judge will review all the evidence and testimony presented and write what is called a Proposal for Decision (PFD). The PFD is the judge's recommendations to the TxDMV as to whether or not the allegation(s) were committed, what civil penalty, if any, should be paid by the Respondent, and how the judge came to that conclusion. The PFD is not the final decision in the case. If you or the attorney disagrees with the result recommended in the PFD, you each have the opportunity to 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 TxDMV Motor Vehicle Division or the TxDMV Board, depending on who is the final decision maker. You may have an opportunity to make an oral presentation before the final order authority. The PFD, exceptions, and replies will be reviewed. The PFD may be approved as-is, certain parts of it may be changed, or the decision maker may send the entire case back for a new hearing. The final order authority will ultimately sign a Final Order and the order will become final in 25 days. A copy of the Final Order will be mailed to the Respondent's last known address.

### ***Can I appeal the final order?***

Yes, but you must first file a legally sufficient Motion for Rehearing (MFR) within the 25-day period after the Final Order is signed. The MFR must specifically describe and explain any alleged points of error found in the findings of facts and/or conclusions of law in the TxDMV's Final Order entitling you to another hearing. The MFR will be forwarded to the final order authority to decide whether you will be granted another hearing. If the final order authority disagrees with you and denies your motion, then you must comply with the Final Order. The Final Order can be appealed to a Travis County District Court. It is highly recommended that you hire an attorney to prepare a district court appeal. You must file a MFR in order to appeal to the District Court. If you miss the 25-day deadline to file the MFR, you cannot appeal.

### ***When do I have pay a civil penalty?***

If you have reached an agreement with the attorney before a hearing, the attorney will send you an Agreed Final Order. You must sign the Agreed Order and pay any penalty

imposed within the time limit noted in the cover letter. If a civil penalty is imposed by a Final Order, you must pay the penalty within the time period stated in the Final Order. If you do not timely pay a civil penalty, further enforcement action may be taken against you. Additional action may result in another penalty being imposed or revocation of your dealer license. Outstanding penalties are debts owed to the state and are sent to the Texas Comptroller of Public Accounts to initiate a warrant hold that will divert any monies owed to you by the State of Texas to the TxDMV to satisfy the civil penalty. Cases may also be sent to the Texas Attorney General who will initiate collection action to recover the outstanding penalty amount.

***What would happen if I just don't show up for the hearing or answer any mail related to it?***

If you fail to appear on time for the scheduled hearing, the proceeding will be held without you. The attorney will present evidence and ask for a civil penalty or possibly a revocation of your license. If you do not show up at the hearing and you did not file a reply to the NODD specifically admitting, denying, or otherwise explaining the allegations in the NODD, all the allegations contained therein are deemed to be true. The judge will then submit a proposed default Final Order to the TxDMV final order authority for consideration. If the Final Order is executed you will be sent a copy and held responsible for compliance with the terms of the order, (for example, paying a civil penalty). If you do not abide by the Final Order, additional adverse action may be initiated against you including revocation of your current license and you may be prevented from receiving a new license in the future.

***Can I just call and talk to the Judge?***

Neither a Respondent nor the Petitioner (the TxDMV) may talk to the judge without the presence of the other party either in person or on a conference call. This means you cannot call the judge yourself to tell your side of the story. This is to prevent one side from telling its side of the story without the other person having an opportunity to respond.

**If you have any additional substantive questions about the administrative complaint process outlined in this chapter you should seek private legal counsel. Questions directly related to the procedure administrative cases follow may be directed to the TxDMV Enforcement Division Legal Section at (512) 465-4204. A TxDMV attorney can explain the process and is able to negotiate an informal settlement, but the attorney does not represent you or your interests and cannot provide you with legal advice.**

**CHAPTER 13.**  
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