



FAIR DEALER NEWSLETTER

Quarterly updates for the dealer and manufacturer industry

www.dol.wa.gov/business/vehiclevesseldealer/dlrresources.html

July 2007

Greetings from the Administrator



Things have really been busy within the Department of Licensing (DOL) Dealer & Manufacturer Services Section since the last issue of the Fair Dealer was

published back in April. With the legislative session, leadership changes at DOL, employee turnover, and internal procedural changes, it has been a dynamic and interesting 2nd quarter for us.

Fortunately, Dealer & Manufacturer Services is home to many dedicated and hard-working employees who take great pride in their contributions to consumer protection and to the creation of a fair and equitable business environment for dealers. Contrary to the popular perception about public employees being bureaucratic drones who make a career out of sloughing work, we have some very capable and professional people here. It is my distinct pleasure as administrator of the Dealer & Manufacturer Services section to work with some of the finest and most dedicated people I have seen anywhere.

Many of you know that when the Washington State Legislature is in session, it creates a lot of work for certain state agencies. DOL is impacted by the legislature probably as much or more than most state agencies because in one aspect or another, DOL touches the life of

nearly every adult citizen. If you stop and think about it, just about everybody needs a driver's license, vehicle license, business license, or a professional license, to name a few. So it goes without saying that DOL is involved in a great deal of legislation which translates into a few very busy months during the session.

Within this edition of the Fair Dealer, you will find a summary of the legislative bills from the 2007 session that impacted Dealer Services. It is my hope that this will be of interest to you. I would like to recognize our legislative coordinator, Kim Zuchlewski, for her hard work during the session, and for pulling this summary together. Kim is also our Fair Dealer editor, so as you can see, she has many talents.

I will close with a reminder that this newsletter is designed for you and is intended to be for your benefit. We welcome your participation and your feedback as we evolve into (pardon the expression) a "vehicle" for sharing industry information. Please let us know how we are doing.

Cordially,

Dan Devoe
Administrator
Dealer & Manufacturer Services



2007 Legislative Summary



HB 1002 – Modifying the sales and use taxation of vessels

- A retail sales tax exemption is provided for vessels 30 feet or longer sold to nonresident individuals.
- The vessel owner must purchase and display a use permit provided by the vessel dealer at the time of purchase. To qualify for the sales tax exemption and receive a use permit, the individual must provide satisfactory proof of his or her nonresident status at the time of purchase.
- A vessel dealer is not required to make tax exempt retail sales to nonresidents. If a vessel dealer does make an exempt sale, the dealer must maintain records that adequately substantiate the buyer's nonresident status.
- The fee for a use permit is \$500 for vessels 50 feet in length or less and \$800 for vessels over 50 feet in length. The fees are deposited in the State General Fund. A use permit is valid for 12 consecutive months from the date of issuance and is nonrenewable.
- A vessel in Washington that remains after the permit has expired is subject to sales tax on the original selling price of the vessel. Interest applies to any tax due. A seller that makes tax exempt sales and does not maintain adequate records is liable for the sales tax. Vessel dealers who issue use permits must file tax returns electronically.

Use Tax Exemption for Vessels. A use tax exemption is provided for vessels 30 feet or longer for vessels:

- Brought into the state by nonresident individuals;
- Purchased in the state from a vessel dealer and having a valid use permit, as described above; or
- Purchased from a person who is not a vessel dealer.

A nonresident individual who purchases a vessel in the state from a person who is not a vessel dealer, or brings a vessel into the state, must purchase and display a use permit within 14 days of the date the vessel is purchased in, or brought into, the state, to receive the exemption. The conditions and requirements for use permits for use tax exemptions are the same as the requirements and conditions for use permits for sales tax exemptions, as described above.

A nonresident may not claim the 45 day use tax exemption for a vessel within 24 months of the expiration of a use permit for the same vessel.

Vessel Registration Exemption. Nonresident individuals possessing a valid use permit do not have to acquire a vessel identification document from, or register the vessel with, the Department of Licensing during the 12 month period the permit is in effect.

Effective July 1, 2007

HB 1892 – Addressing the impoundment of vehicles parked on public streets by police officers

A police officer may impound a vehicle parked on a public street with registration that has been expired for more than 45 days.

Effective July 22, 2007

HB 2118 – Transferring responsibilities related to mobile and manufactured home installation from the Department of Community, Trade, and Economic Development to the Department of Labor and Industries

This bill transfers responsibilities related to mobile and manufactured home installation from the Department of Community, Trade and Economic Development (CTED) to the department of Labor and Industries.

- This bill will change Dealer Services responsibility for manufactured home warranty investigations – we will cease doing them and the responsibility will be transferred to the Department of Labor & Industries (L&I).

Effective July 22, 2007

HB 2135 – Expanding lemon law coverage to out-of-state consumers

- The lemon law applies to vehicles purchased or leased in Washington regardless of what state the vehicle is initially registered in.

Effective July 22, 2007

HB 2158 – Concerning the sales of vehicles and associated services to nonresidents of Washington

- The sales and use tax exemption for motor vehicles, trailers, and campers is modified by specifically listing acceptable documentation to substantiate a buyer's nonresident status. As long as a seller maintains this documentation, the seller is not liable for sales tax if the DOR finds evidence during an audit negating the presumption of nonresidency.
- The DOR's policy of allowing the nonresident sales and use tax exemption for separately itemized tangible personal property (TPP) for motor vehicles, trailers, and campers is codified. To receive the exemption, the charge for TPP must be stated separately from any labor and services, and the cost of the property must not exceed either the seller's current publicly stated retail price for parts, or if no separately stated retail price is available, the seller's cost for the parts.
- The buyer of a motor vehicle, trailer, or camper is authorized to use a trip permit from his or her state of residency in lieu of a Washington state vehicle trip permit.
- Monetary and criminal penalties for fraudulent statements regarding residency relating to the purchase of motor vehicles, campers, and trailers are made consistent with the penalty provisions in the general sales and use tax exemption for tangible personal property.

Effective July 22, 2007

SB 5050 – Modifying the mileage tolling calculation in the motor vehicle lemon law

- Changes the calculation of the reasonable offset that the consumer is required to pay when a vehicle is replaced or repurchased under the Motor Vehicles Warranties Act.
Effective July 22, 2007

SB 5112 – Allowing auctioneers to auction vessels without registering as a vessel dealer

- A properly licensed auction company, also licensed as a motor vehicle dealer, may sell at auction all vessels that a vessel dealer is authorized to sell, without registering with DOL, so long as the sale of vessels is not the auction company's primary source of business.
- Auction companies that sell vessels at auction must comply with the other requirements of chapter 88.02 RCW, including rules adopted pursuant to that chapter.
- The length of any vessel sold by an auction company cannot be greater than 25 feet.
Effective July 22, 2007

SB 6129 – Providing additional funding for the state patrol highway account

- This bill adds a new section to RCW 82.12 that exempts motor vehicles registered in another jurisdiction from being subject to use tax in Washington State.
- The fee for a temporary permit is raised to \$15 and the documentary service fee is raised to \$50 per vehicle sale or lease.

Effective August 1, 2007

Updated Manuals

Check out the following manuals that have been updated and are available on our website:

- Vehicle Dealer & Manufacturer Manual (01/07)
- Registered Tow Truck Operator Manual (01/07)
- Vessel Dealer Manual (02/07)
- Vehicle Wreckers Manual (04/07)
- Hulk Hauler / Scrap Processor Manual (04/07)
- Vehicle Wreckers Manual (04/07)



Unfair and Deceptive Advertisement

By: Chuck Coach, License Auditing and Legal Services Manager

Can you guess what this article is about? . . .

- “Pre-owned”
- “Huge numbers available”
- “Below Wholesale Price”
- “No payments until March 2008”
- “Everyone Qualifies”
- “We will pay off your trade no matter how much you owe . . . negative equity can be added to the amount financed.”
- “If you paid factory invoice . . . you paid too much.”
- “OAC”

If you did not guess “advertising,” you are probably not a vehicle dealer. As you all know, the laws and rules which govern vehicle advertisement have generated a great deal of discussion through the years. DOL and the Consumer Protection Division of the Attorney General’s Office believe competing dealerships are entitled to a level playing field. The department will continue to partnership with the industry and individual dealers to ensure issues surrounding deceptive advertising are addressed.

The following issues are of concern to the department:

- Material disclosures which are not clear and noticeable
- Type/font size that is difficult to read
- All disclosures at the bottom of the page, rather than in close proximity to the terms used
- A claim that cannot be substantiated by the offering dealer
- Multiple rebates not available in combination with each other
- Misleading consumers to believe many vehicles are available at the advertised price
- Claiming no down payment is required when, in fact, it is.

Consequently, we would encourage that you have your attorney review ads to ensure they comply with all applicable laws. If you believe a competitor is not acting in accordance with the legal requirement of the advertising statutes, you can contact the department.

A word of caution is needed here. The department cannot offer legal advice. This is why we ask you to have your attorney review any ad. However, we can and do investigate any unfair practice. Misleading advertisement is prohibited by law. Businesses that violate these statutes can face legal action under the Unfair Business Practices and the Consumer Protection Act. The Department of Licensing can fine, suspend or revoke the license, depending on the evidence. This is in addition to any action taken by the Consumer Protection Division of the Office of the Attorney General (AG). The AG can initiate civil penalties up to \$2,000 per violation, and recover attorney fees and costs, as well as restitution.

Again, competing dealerships are entitled to a level playing field. If you have a complaint, please send it in writing to, Dealer Services, PO Box 9039, Olympia, WA 98507.

Disciplinary Action Cases

January 1 thru May 31, 2007

Abbey's Autos, Spokane

Finding: Failure to pay \$500 fine
Action / Penalty: Suspended until fine is paid

All Star Ford, Olympia

Finding: Late title transfers
Action / Penalty: \$2,000

Armstrong Auto Wholesales, Gig Harbor

Finding: Failed to maintain place of business
Action: Renewal denied / \$500

Bayview Auto Sales, Bremerton

Finding: Failure to provide original bond
Action / Penalty: License revoked

Big Jakes Used Parts and Salvage, Grapeview

Finding:

1. Delivered crushed vehicles and/or parts to a scrap processor without proper documentation.
2. Failed to use wrecker plates when transporting crushed vehicles / vehicle parts to scrap processor.

Action / Penalty: \$500

Black Diamond Auto Wrecking, Black Diamond

Finding: Failed to keep vehicles or integral parts inside the wrecking yard fence.

Action / Penalty: \$1,500

Bruce Titus Automotive Group, Olympia

Finding: Issued more than two dealer temps

Action / Penalty: \$500

Charley Merritt Auto Parts, Roy

Finding: Stored vehicles outside the wrecking yard fence.

Action / Penalty: \$2,000

Earl Soushek, Enumclaw

Finding: Unlicensed dealer activity
Action / Penalty: Cease & Desist / \$3,500

First Choice Auto Sales, Lynnwood

Finding: Failure to pay fine
Action / Penalty: \$1,000 / In addition to the penalty previously assessed, the dealer license is suspended until monetary penalties are paid.

Fred's Towing Service, Enumclaw

Finding: Conducted business of a vehicle wrecker without holding a vehicle wrecker license.

Action / Penalty: \$5,000

Gary's Westside Towing, Seattle

Finding: No established place of business (did not provide the hulk hauler change of address form).

Action / Penalty: Suspended / \$500

Gilbert O. Mendoza, Yakima

Finding: Failure to pay fine / failure to apply for and be approved for a vehicle dealer license.

Action / Penalty: \$3,000

Great American RV Center, Inc., Fife

Finding:

1. Insolvent.
2. Late title transfers.
3. Failed to payoff trade-in lienholders.
4. Failed to pay consignors within the required 10 days.

Action / Penalty: \$12,000

**Disciplinary Actions
Cont'd**

Green Light Auto, Parkland

Finding:

1. Late title transfers.
2. Failed to make records available.
3. Falsified date of sale on certificate of ownership application.
4. Falsified date of delivery on vehicle certificate of ownership application.

Action / Penalty: License revoked / \$750

Jeffrey Marrs, Puyallup

Finding: Unlicensed dealer activity

Action / Penalty: Cease & Desist / \$3,500

King County Auto Auction, Tacoma

Finding:

1. Failure to pay \$5,000 monetary penalty within 10 days after assessment became final (due to late title transfers)
2. Failed to provide department with certification of completion in the dealer education program
3. Late title transfers

Action / Penalty: \$11,250

Lang Autosports Inc., Lynnwood

Finding:

1. Salvage/rebuilt disclosure added to purchase contract weeks after sale.
2. Failed to disclose vehicle was a rebuilt total loss on face of purchase order.

Action / Penalty: \$1,000

Larson Dodge, Puyallup

Finding: Late title transfers

Action / Penalty: \$3,500

Lynnwood Cycle Barn, Lynnwood

Finding: Late title transfers

Action / Penalty: \$12,000 / 3 day suspension

Maria G. Godinez, Yakima

Finding: Unlicensed dealer activity

Action / Penalty: Cease & Desist / \$2,500

Monster Auto Wrecking, Inc., Seattle

Finding:

1. Failed to maintain sight-obscuring fence around wrecking yard.
2. Stored vehicles outside the wrecking yard fence.
3. Failed to mark vehicles and major component parts with yard numbers.
4. Failed to remove and destroy license plates from inventory vehicles.

Action / Penalty: License suspended for 7 days / \$500

Mountain Mitsubishi, Tacoma

Finding: Late title transfer

Action / Penalty: \$2,500

Pacific Auto Zone, Federal Way

Finding: Criminal conviction

Action / Penalty: License revoked until 09/09/2014

Puyallup Truck Corral, University Place

Finding: Failed to comply with place of business

Action / Penalty: License suspended / \$500

Reliable Imports International, Kent

Finding: No established place of business

Action / Penalty: License suspended

Robert Larson's Chrysler Jeep, Tacoma

Finding: Late title transfers

Action / Penalty: \$3,000

Saturn of Lynnwood, Lynnwood

Finding: Late title transfer

Action / Penalty: \$1,000

**Disciplinary Actions
Cont'd**

Sean M. Bryan, Seattle

Finding: Unlicensed dealer activity
Action / Penalty: Cease & Desist (has applied for dealer license)

Spokane Auto Sales, Spokane

Finding:

1. Late title transfers.
2. Consignment agreement incomplete.
3. Issued more than 1 dealer temp.
4. Falsified date of sale on title app and odometer statement.

Action / Penalty: \$11,000

Steven A Alfonso, Longview

Finding: Unlicensed dealer activity
Action / Penalty: Cease & Desist / \$9,000

Steven Auto Transport, Tacoma

Finding: Unlicensed dealer activity
Action / Penalty: \$6,000

Sundance Auto Sales, Olympia

Finding:

1. Late title transfer
2. Issued more than 2 dealer temps

Action / Penalty: \$500

Newsletter Editor, Kim Zuchlewski

Questions or comments for the editor? Email kzuchlewsk@dol.wa.gov

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