



Dealer Newsletter

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Selling, possessing vehicles, parts without I.D. numbers may violate law

Dealers should be cautious when dealing with vehicles or vehicle parts that have no identification numbers or which have numbers that have been removed, altered, hidden, destroyed or disguised.

A vehicle or vehicle part that has a number obscured, defaced, altered, etc., should NOT be sold or offered for sale in that condition. The vehicle or part must have a replacement identification number applied either by law enforcement or the Department of State.

In fact, simply possessing a vehicle or part without its proper manufacturer's serial number or the engine or motor number is prima facie evidence of a violation of the law. And, law enforcement may confiscate the vehicle or part if it cannot be properly identified. If vehicles or vehicle parts are confiscated from a licensed vehicle dealer, the dealer's license is subject to suspension or revocation.

No dealer, auction, broker or salvage pool should ever sell a vehicle or part that does not have a proper identification number. The law prohibits the removal of any identifying number on a vehicle or part. Dealers and repair facilities who repair, rebuild or reconstruct (assemble) vehicles must be careful to:

1. Leave all existing (original and replacement) numbers on the vehicle and on all parts.
2. Not remove, paint over, scratch out, destroy, obliterate, etc., any original or replacement numbers that appear on any vehicle or part of the vehicle.

3. Leave the original VIN on each cab when replacing a truck cab. Do not remove the VIN from the damaged cab and place it on the replacement cab.

If the replacement cab is new without a VIN, the owner of the vehicle must apply for a "replacement" VIN number through the Department of State.

If the cab replacement is a used cab with its original VIN, leave the number on the part. The repaired truck will carry a different VIN than the one appearing on its title and registration.

Also, if the truck being repaired qualifies as a late model distressed vehicle (damaged more than 75 percent, but less than 91 percent of its actual value), it must have a salvage title and be inspected and recertified before it can be driven. The new title will show the vehicle is a "previously issued salvage title" (rebuilt) vehicle and should alert law enforcement to expect different numbers.

If the damage is more than 91 percent, a scrap title must be obtained and the truck cannot be rebuilt. If the vehicle needing a new cab does not qualify as a late model distressed vehicle, the vehicle's original title need not be changed.

"Late model" is defined as a vehicle weighing 8,000 pounds or less, manufactured in the current model year or the five model years immediately preceding the current model year, or, if over 8,000 pounds, a vehicle manufactured in the current model year or the 15 model years immediately preceding the current model year.

Many questions answered in Dealer Manual

Answers to many questions asked by dealers may be found in the Dealer Manual. Since March 1997 all newly licensed dealers have been given a copy of the Dealer Manual. A copy was also mailed to all licensed dealers in April 1997.

This valuable reference book provides answers to most commonly asked questions and contains important information for dealers about how to operate and comply with the Michigan Vehicle Code. The manual is divided into nine sections: licensing, record keeping, title and registration, odometer disclosure, salvage, brokers, completing an RD-108, sales tax and foreign salvage vehicle dealers.

Keep the Dealer Manual readily available and refer to it when questions arise. If you have a question that the manual does not cover, or if you need additional copies of the manual, please contact BAR's Dealer Division by telephone at 517/373-9081.

Garage Keeper Lien Act amended

Public Act 236, effective July 3, 1998, amends the Garage Keeper Lien Act. The following amendments were enacted:

The garage keeper must send a notice of the intent to file a lien by certified mail to the owner of the vehicle. The notice must include an itemized statement showing the amount due and the date the amount was due. The notice must be accompanied by a demand for payment not more than 45 days after delivery of the notice.

On the same day the garage keeper sends the notice to the owner, an exact duplicate of the notice must be sent both to the Michigan Department of State, Bureau of Automotive Regulation, Lansing, MI 48918-1200, and to any prior lienholder noted on the vehicle's title. The Bureau of Automotive Regulation may block the lien if the vehicle owner disputes the repairs.

Unless agreed to in writing, garage keepers cannot charge storage fees for longer than 120 days after the last repair is performed.

The formula for calculating the maximum amount the prior lienholder has to pay the garage to recover the vehicle has changed. If the repaired vehicle has a market value of more than \$3,000, the amount of the lien will be not more than 20 percent of the market value of the repaired vehicle or \$5,000, whichever is less. If the market value of the repaired vehicle is \$3,000 or less, the amount of the lien will be \$600. The amount payable to the garage keeper will not exceed the market value of the vehicle.

"Market value" is defined as the value as determined by the issue of the national auto dealers association official used car guide in effect at the time the garage keeper performs the first labor or first furnishes supplies for which the garage keeper claims a lien under the act.

Garage keepers cannot file a lien to recover labor or materials for custom

installations (custom interiors, electronic equipment or parts not essential to the normal operation of the vehicle).

The garage keeper may apply to the Michigan Department of State, Bureau of Driver and Vehicle Records, Out-of-State Resident Services Unit, Lansing, MI 48918 for a certificate to file a garage keeper lien.

If the garage keeper bids for and purchases the vehicle at the public sale or if the garage keeper indirectly acquires ownership of the vehicle (e.g., lack of other bids), the proceeds of the sale will be considered to be the greater of the following: the amount paid by the garage keeper or the market value of the vehicle at the time of sale. (See definition of market value.)

Proceeds of the sale other than what the garage keeper is legally entitled to recover must be disbursed to prior lienholders or the vehicle owner. If the owner of the vehicle doesn't claim the money within two years after the date of the sale, the money will escheat to the state.

The act requires the garage keeper to give all lienholders and the prior owner 30 business days notice before the sale takes place.

Dealers and repair facilities are urged to keep copies of any documents they use to put customers on notice that storage fees will be charged if the customer fails to pick up a vehicle.

Dealers and repair facilities who have questions about the garage keeper lien application process may call the Out-of-State Resident Services Unit at 517/322-1473.

Information regarding lien holders will be provided by the Department of State upon application for lien. Payment of a \$10 fee is required. To obtain an application for lien, contact: Michigan Department of State, Bureau of Driver and Vehicle Records, Out-of-State Resident Services Unit, Lansing, MI 48918.

Dealer license renewals due Nov. 1

The 1999 dealer license renewal forms were mailed in early October and were due back to the Department of State by November 1, 1998. The November 1 deadline insures that the department has sufficient time to process the renewal before the license expires on December 31.

Effective this year, the department will no longer tab dealer plates every other year but will instead issue new plates each February. As you complete your renewal form, simply calculate how many dealer plates you are eligible for or need to conduct business, and purchase them. As a reminder, when ordering Great Lakes Splendor dealer plates there is an additional \$5.00 service fee for each plate

ordered. There are no additional service fees for regular blue dealer plates.

There is one minor change to the renewal form this year. Items 15 and 16 have been reversed because many dealers missed the line for the dealer license renewal fee when calculating their fees.

Many dealers wait until renewal time to make changes to their license, e.g., adding or deleting partners or officers, changing the business name or address, adding or deleting franchises, etc. These changes can delay processing the renewal. Please read the renewal instructions carefully as they contain information to assist you in making your changes and may help avoid unnecessary delay.

Changes implemented to RD-108 forms

Effective immediately, RD-108 forms will have two fewer parts. The Department of State has notified printers that they no longer need to include two of the copies routinely kept by the Department of State (parts 3 and 5, the second white copy and the blue copy). Since the department now issues laser printed tabs and registration documents, extra copies of the RD-108 are no longer needed to update registration records.

Dealers should be aware that RD-108s will change significantly in early 1999.

The Dealer Advisory Committee's legislative package will become law by the end of this year with an implementation date of January 1, 1999. The advisory committee recommended that the finance information be deleted from the RD-108, as the information is duplicated on the installment sales contract.

Dealers should keep these expected changes in mind when ordering supplies of the RD-108 form.

Dealers may sell scrap-titled vehicles "for parts only"

When a Michigan scrap title is issued to a vehicle, the vehicle identification number is effectively "killed" and cannot be used again to title or register the vehicle. Scrap titles also have assignment limitations. The first assignment can only be made to a properly licensed Class C, used vehicle parts dealer; Class R, automotive recycler; Class H, foreign salvage vehicle dealer; or Class F, scrap metal processor. The second, and final, assignment on the scrap title can only be made to a scrap metal processor.

Some parts dealers, including recyclers and foreign salvage vehicle dealers, sell scrap-titled vehicles on a bill of sale with a disclosure statement that the scrap-titled

vehicle is being sold "for parts only."

Dealers may sell scrap-titled vehicles in this manner provided they immediately forward the title to the Department of State for cancellation. In no circumstances should the scrap title be given to the purchaser.

Sending the title immediately to the department for cancellation will help insure the vehicle is not rebuilt in another state and the scrap title converted to a rebuilt or reconstructed title. The word "scrapped" or "junked" should be written on the face of the title and the title mailed to the Michigan Department of State, Bureau of Driver and Vehicle Records, Conversion Unit, Lansing, MI 48918.

Dealer training registration available on Internet

It is now even more convenient for dealers to enroll in a dealer training course. Dealers are now able to register for training courses using the world wide web. In addition to telephoning, faxing, or mailing enrollment information, dealers may now register through the web at:

www.sos.state.mi.us/bar/dealer/reginfo.html

If you prefer to use a more traditional method to register for class, you may telephone 517/373-6993, fax your registration form to 517/373-7419, or mail your completed registration form to the Michigan Department of State, Bureau of Automotive Regulation, Lansing, MI 48918-1260.

The fall dealer training flyer was recently mailed to all currently licensed dealers. If you would like to request additional copies of the training flyer, please telephone 517/373-6993, or you can view the training schedule at the web site.

Problem identified in calculating plate fees

Several dealers using the new plate fee calculation disk have identified a glitch in the way the software calculates fees for company-owned pickups and vans.

Plates for these vehicles expire on February 28 each year. Although the fees should *not* be prorated, the software does prorate the fees for company-owned pickups and vans. Other commercial vehicles, e.g., stake trucks, calculate correctly.

To overcome the proration glitch, dealers can enter February 28 as the date of delivery each time a plate fee is calculated for company-owned pickups and vans.

Entering "02/28" will insure the proper 12-month fee is generated.

Temporary registrations are for customers only

All dealers are reminded they have 15 days from the date of vehicle delivery to process the application for title (RD-108) and secure registration plates for their retail customers. Customers who purchase new registration plates receive a BFS-4 temporary registration form which can be used to drive the vehicle until the new plate is received.

Dealers are also reminded of the legal consequences for using or issuing temporary registrations improperly. The Michigan Vehicle Code (Section 257.257) states that it is a felony to alter, forge, falsify, hold or use counterfeit or false documents, includ-

ing titles, temporary registration plates and markers. Dealers should never alter the date on a temporary registration to extend the registration period. Likewise, dealers should never sell or give temporary registrations to other dealers or friends to use. Temporary registrations are not to be used on vehicles belonging to the dealership to transport the vehicles to auction, to body shops, or between dealership locations. Temporary registrations (BFS-4) are only to be used on customers' vehicles who have current no-fault insurance and are waiting for a new registration plate.

Document fees clarified for certain transactions

In the Spring 1998 issue of the Dealer Newsletter, an article stated that, "according to the Financial Institutions Bureau of the Department of Consumer and Industry Services, documentary fees cannot be charged for motorcycle, trailer and fifth-wheel trailer transactions."

Although the statement is accurate, it warrants further explanation. Motorcycles, trailers and fifth-wheel trailers are not motor vehicles as defined under the Motor Vehicle Sales Finance Act (MVSFA). Therefore, transactions of these types of vehicles are not subject to the \$40 documentary fee permitted under the MVSFA.

These types of vehicles may fall under the definition of *goods* according to the

Retail Installment Sales Act (RISA) if they are purchased for "personal, family or household use and not for commercial, agricultural or business use." The RISA also states that "goods do not include a motor vehicle." Therefore, depending on their intended use, motorcycle, trailer and fifth-wheel trailer sales transactions generally fall under RISA and are subject to a 2% processing fee that is permitted under the Credit Reform Act.

The department apologizes for any confusion the previous Dealer Newsletter may have caused. Dealers with questions about charging processing fees should consult with their attorney.