

# Plain Dealing

A policy and administrative bulletin for licensed dealers  
from the WisDOT DMV Dealer and Agent Section



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## Dealer-Lessors must carry separate bond

A lessor must file with the Department a bond or policy of insurance for liability in the case of damages caused by the negligent operation of a leased vehicle, according to Wisconsin Stat. § [344.51\(1m\)](#). Statute sets the [required minimum amount](#) of coverage at \$60,000.

Dealers *whose name will appear as the lessor on the title* of a leased vehicle are subject to this requirement. Dealers who facilitate leases between their customer and another party (e.g., a leased vehicle titled to the manufacturer's lending arm) are exempt from this rule.

*For the purposes of this requirement, "lessor" is defined as "a person who, for compensation, leases a motor vehicle to a lessee to be operated by or with the consent of the lessee or who acquires a contract for the leasing of a motor vehicle from another person."*

The Department requires all Dealer-lessors to submit proof of coverage or bond documentation to the Department by November 1, 2020.

Failure to maintain the required bond or liability insurance makes the dealer-lessor directly responsible for any damages caused by the negligent operation of a leased vehicle per Wis. Stat. §341.51(2) and you may be subject to forfeiture and sanctions against your dealer license.

If you have any questions about this requirement, or if you are unsure if your dealership meets the definition of a lessor, please contact the Dealer Licensing Unit at (608) 266-1425.

## Changes to federal odometer disclosure laws take effect January 1, 2021



BIG changes are coming for odometer laws at the start of the new year... and no, you aren't experiencing *déjà vu*.

The National Highway Traffic Safety Administration (NHTSA) published a ruling last year regarding odometer disclosures beginning in 2020. A late petition to reconsider the rule led to it being pushed back an additional year. Let's take another look at what this new rule means for dealers and their customers in 2021.

The law changes the number of years a vehicle is exempt from disclosure. Beginning January 1, 2021, all vehicles models 2011 and newer must disclose mileage for 20 years.

For example: under the new rule, a 2011 model year vehicle will require odometer disclosure until the year 2031.

*Why was this rule changed?* According to NHTSA, the average age of vehicles on the road today is 12 years old and that number is increasing. In order to combat odometer fraud in older model vehicles and protect consumers, NHTSA implemented this new rule.

*How will this affect dealers?* Starting with 2011 model year vehicles, you will need to disclose the mileage for 20 years rather than 10. Forms requiring odometer disclosure (i.e. MV11, MV2690, Wisconsin Buyer's Guide, etc.) have been updated by the Department with language consistent with the new requirement.

The DMV is working with form vendors to ensure these updated forms will be available by the time the law takes effect. Please contact your form vendor for additional information.

## Online sales and 'right to cancel'

The Wisconsin Consumer Act gives customers the right to cancel certain consumer transactions within three business days. The three-day right to cancel applies when:

- A finance charge is assessed, or a cash transaction exceeds \$25;  
**AND**
- The dealer initiates a vehicle sale or lease by face-to-face contact away from the dealer's licensed location, or by mail or telephone directed to the customer, and the paperwork is completed away from the dealership.:



Paperwork signed electronically is considered “completed away from the dealership.” How does this affect vehicle sales when paperwork is completed virtually or online? Let's consider two potential scenarios.

**Scenario 1:** A customer contacts the dealership by email, or sends an inquiry directly through the dealer website, about a 2020 Picard Pirahna coupe, Stock #01234. The paperwork is completed electronically.

**There is no right to cancel.** Since the customer initiated the conversation about the vehicle, “right to cancel” does not apply.

**Scenario 2:** A customer contacts the dealership by email, or sends an inquiry directly through the dealer website, about a 2020 Picard Pirahna coupe, Stock #01234. No deal is completed. One month later, the dealer takes into inventory another 2020 Pirahna, Stock #05555, and reaches back out to the customer to let them know they have a similar vehicle available. The customer agrees to purchase Stock #05555 and the paperwork is completed electronically.

**The customer has the right to cancel.** While the customer initially contacted the dealer about vehicle Stock #01234, it was the dealer who later contacted the customer about vehicle Stock #05555. Since this communication was unsolicited, the Wisconsin Consumer Act takes effect.

Whenever the dealer is the one to initiate the conversation about the sale online, and paperwork is completed electronically, “right to cancel” applies to the sale.

WisDOT recommends dealers keep a record of communications with customers related to any sale completed electronically, in case questions arise regarding the nature of the sale.

## Advertising vehicles in transit

The [July 2020 edition](#) of *Plain Dealing* we discussed advertising vehicles as “Coming Soon.” Here are guidelines as they relate to vehicles in transit to dealers.

If you as the dealer hold the ownership document to a vehicle in transit, you may advertise that vehicle under the following conditions.

A vehicle can only be advertised when it is available within a **reasonable** amount of time— with regards to this rule, "reasonable" is seven business days— **OR** the ad clearly and conspicuously provides a date at which time the vehicle will be made available for delivery, as per Wis Admin. Code ch. [Trans 139.03\(10\)](#).

For example, if you are notified a vehicle's estimated arrival date to your dealership won't be until November 1, 2020, the ad must state "Available 11/1/20."

Generalized statements such as "Vehicle available within 30 days", "Available Soon", or similar phrases do not provide a definite timetable for delivery and is not allowed. If the vehicle will be available within seven business days of posting, no special notation in the ad is required.



## Changes to field investigator territories

On July 2, 2020, DMV made changes to field investigator territories. If your dealership is in one of the following counties, please note your investigator has changed.

**Buffalo, Trempealeau, Jackson:** Investigator Cody Keehn

**Langlade, Wood, Portage, Waupaca:** Investigator Michael Urban

The [Field Investigator Unit \(FIU\) Territories map](#) always has the most up-to-date territory and contact information for members of FIU.

## What's in a price? And who's responsible for it?

The Department recently discovered a number of dealers improperly advertising a vehicle's selling price excluding certain charges related to vehicle set-up and delivery. This results in consumers paying hundreds of dollars more to purchase a vehicle and is a violation of state law.

When advertising a selling price only four things can be excluded: taxes, title fees, registration fees, and the optional service fee\*. Other charges, such as freight or destination fees, set up fees, and installation or assembly fees, if charged to the customer, must be reflected in the advertised price, as per Per Wis. Admin. Code ch. Trans 139.03(3)(a).



The issue is rarely isolated to a single dealer. There are thousands of licensed dealers in Wisconsin, but only a handful of website vendors catering to the business needs of dealers. As a result, dealer websites often share similar or the same language and disclosures—and the same violations.

Federal Trade Commission (FTC) guidelines for online advertising assign equal responsibility to both the web vendor and the advertiser for ensuring compliance. That means when we discover advertising violations online, we'll come to you to address the situation. Taking responsibility to self-identify and

act on your own advertising violations can make the difference in your customers' experience and save you from costly enforcement actions.

If you have any questions or concerns about advertising—online, in print, or wherever you do business in Wisconsin—please contact [Tristan.Kloss@dot.wi.gov](mailto:Tristan.Kloss@dot.wi.gov).

(\*About service fees: the service fee recognizes some of the costs involved in complying with state and federal laws when selling a motor vehicle. While setting up, installing, and assembling a motor vehicle may be a type of “service” to the consumer, the law does not treat it the same as a service fee.)

## Local investigator wins national award

On August 31, 2020 Odometer and Title Fraud Investigator Joel Ingebrigtsen received the [Fraud Prevention and Detection Award](#) from the American Association of Motor Vehicle Administrators (AAMVA).

Ingebrigtsen was recognized for his work on a multi-state fraud case which helped identify over 100 fraudulent titles and MCOs from eight different states. The effectiveness of his techniques has led to them being adopted by several other states to aid in their own investigations.

## Quarterly Report

The following numbers have been generated from the Dealer and Agent Section (DAS) Quarterly Report. This data is from the **first quarter** (July through September 2020).

### APU/DLU

The Agent Partnership Unit (APU) answers phone calls from dealers, government agencies, financial institutions, gas stations, grocery stores and various other types of agents throughout the state. These agents electronically process either title and registration, or renewal registration applications on behalf of the DMV. The Dealer Licensing Unit (DLU) issues and renews multiple business license types.

Individual licenses are issued to individuals who are selling or purchasing vehicles on behalf of dealerships. DLU answers dealer licensing questions as well as provides information about consumer harm and how to file a dealer complaint to the general public.

Activity	Fourth Quarter
APU phone calls	19,464
DLU phone calls	5,114
Business licenses issued	727
Individual licenses issued	4,432

### Lemon Law

DMV receives telephone and email inquiries from consumers, dealers, lawyers, manufacturers, and law makers. The inquiries range from questions about the specifics of the Lemon Law, to assisting all facets of pursuing a claim.

Activity	Fourth Quarter
Lemon Law inquiries	79

## [View a list of recent FIU enforcement actions](#)

## What's in PARTNER Press?

In the October 2020 edition of PARTNER Press you'll discover...

- ...an important inventory ordering process update
- ...new Brewers plate designs
- ...how to manage eMV Fleet
- ...and more!

[Read current and previous PARTNER Press newsletters on the WisDOT website.](#)



## Sign up for eNotify



eNotify is the easiest way to get plate renewal and driver license/ID reminders through email or text.

Subscribers to eNotify also receive alerts when certain transactions occur, such as when an application for a duplicate driver license or ID card is made, or when their address is changed in DMV's systems.

You can sign up for eNotify here: [wisconsindmv.gov/enotify](https://wisconsindmv.gov/enotify)

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