

UMV&PC Proposed Consignment Rules

OAC 765:10-3-2

The Used Motor Vehicle and Parts Commission regulates consignment sales of used motor vehicles by licensed dealers. The Commission has published the following changes to the current consignment rules. Deleted language is indicated by ~~strikeout~~ while new language is indicated by underline.

OAC 765:1-3-2. Consignment Sales.

(a) Consignment. A used motor vehicle dealer, whether acting as principal or agent, or by power of attorney, shall be responsible for complying with 765:10-3-1 et seq. with regard to all vehicles purchased, sold, or transferred by the dealer whether or not any other party has any interest in the vehicle being purchased, sold, or transferred. ~~The certificate of title of a used motor vehicle owned by an individual consigned to a used motor vehicle dealer for sale by that dealer need not be assigned by the individual to the dealer provided a consignment form approved by this Commission is used in the consignment transaction, and all other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. The consignee shall not be responsible for the truthfulness of the information provided to him by the consignor unless consignee willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or certificate of title. The consignee, by acting as agent for the consignor, is not deemed to be a transferor with regard to the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. Section 1981 et seq. (Federal Odometer Act). The dealer shall disclose to a potential purchaser if the vehicle offered for sale has been consigned to the dealer by an individual. The individual consigning the vehicle shall provide a copy of the certificate of title to the dealer-~~ consignee at the time of the execution of the consignment agreement. The certificate of title of a used motor vehicle owned by an individual consigned to a used motor vehicle dealer for sale by that dealer need not be assigned by the individual to the dealer, and shall be assigned to the purchaser contemporaneously with the transfer of funds from the buyer to the dealer, provided a consignment form approved by this Commission is used in the consignment transaction, and any other state and federal forms required are properly executed at the time of sale by the dealer as agent for the consignor. A used motor vehicle dealer's tax stamp shall not be required in the assignment of the certificate of title from the consignor to the purchaser. The consignor shall have primary responsibility for the truthfulness of the information concerning the vehicle unless the dealer willfully, knowingly, or negligently with reckless disregard of the true facts, misrepresents or misstates the information on the forms and/or the certificate of title. The dealer, by acting as agent for the consignor, is not deemed to be a transferor with regard to the Motor Vehicle Information and Cost Savings Act, 15 U. S. C. Section 1981 et seq. (Federal Odometer Act). The dealer and the consignor shall both be responsible to the consignor's lender, if any, to satisfy the lender's interest in the vehicle.

A used motor vehicle dealer who has taken a used motor vehicle on consignment from an individual seller shall not consign the vehicle for sale to another used motor vehicle dealer

without the knowledge and written consent of the individual seller and the execution of a consignment form among the three parties.

(b) ~~Tax stamp.~~ A used motor vehicle dealer's tax stamp shall not be required in this transaction. **Consignments between dealers.** A used motor vehicle dealer who takes another used motor vehicle dealer's vehicle on consignment to sell the vehicle at the first dealer's licensed location shall be responsible for complying with 765:10-3-1 et seq. in all particulars, including execution of all forms required for the transaction. There shall be a written document of consignment of the vehicle from the consigning dealer to the selling dealer which may set forth the benefits, responsibilities, and duties of each dealer arising from the consignment transaction, and shall include a statement that the vehicle is subject to a lender's interest or that it is not. Both dealers shall be responsible to the lender to satisfy the lender's interest after the sale of the vehicle.

The used motor vehicle dealer executing the forms shall disclose to the buyer the name, address, dealer number and contact information of the consigning dealer and that the vehicle is a consignment from the first dealer. The certificate of title to the vehicle consigned and sold shall be assigned from the consigning dealer to the selling dealer at the time of the sale of the vehicle and certificate of title shall then be re-assigned to the purchaser. Both dealers shall be responsible to the purchaser for any liability which may arise from or because of the sale of the vehicle, regardless of any statements to the contrary in the consignment form executed between the dealers. A used motor vehicle dealer's tax stamp shall be required in both transactions.

(c) Title:

(1) ~~The certificate of title of a used motor vehicle consigned by a dealer to another dealer to be sold from the consignee's (agent-dealer's) location licensed by this Commission may be assigned or re-assigned directly from the consigning dealer to the purchaser. Transfer of certificates of title in every instance must comply with the provisions of 47 O.S. Sections 1105 and 1107. However it shall be the responsibility of the consignee (agent-dealer) to insure that all forms and state and federal laws and regulations are complied with in the transaction.~~

(2) ~~The certificate of title of a used motor vehicle must be in the name of the dealer (whether by record of title, assignment, or re-assignment) who is offering the vehicle to a prospective buyer if that dealer has the sole discretion in determining the selling price and in determining the amount of profit he will receive from the sale, whether or not any other party has any interest in the vehicle.~~

Consignments at auction. In lieu of the procedure set forth in (a) and (b) above, a used motor vehicle dealer acting as an auction shall follow the procedure in this subsection. Sales by used motor vehicle dealers shall be evidenced by execution of an auction form approved by the Commission. An auction may provide by its own rules, the terms and conditions of sale and purchase between the consignor and the buyer. Said rules shall apply in all instances except where said rules are in conflict with state or federal statute or the Rules of this Commission. An auction, by acting as agent for the consignor, is not

deemed to be a transferor with regard to Motor Vehicle Information and Cost Savings Act 15 U.S.C. Section 1981 et seq. (Federal Odometer Act.) A used motor vehicle dealer consigning a vehicle for sale at auction shall be responsible for complying with all record keeping requirements under the Rules of this Commission.