

Rule Violations Hit the Bottom Line

By ADR Staff

Oklahoma used motor vehicle dealers are finding that failure to comply with state and federal regulations can have a negative impact on store profits. The Used Motor Vehicle and Parts Commission is ramping up enforcement of the rules and regulations governing independent dealers. Violations can result in fines and/or sanctions being imposed against dealers and salespersons. Fines may be up to \$1,000 for each violation; sanctions may include revocation of license. During the months of June, July, and August the Commission assessed over \$13,000 in fines as a result of alleged violations detected during audits and investigations. An additional \$12,000 in fines has been approved by the Commission and is awaiting review by the Attorney General's office. Following are activities for which dealers have been fined and sanction in recent months.

- **Advertising vehicles for sale on Craigslist without identifying oneself as a used motor vehicle dealer in the ads.** The disclosure must be made even when the ad is placed in the "Dealers" section of Craigslist.
- **Offering vehicles for sale at different prices for cash sales and credit sales.** Pricing in this manner is a potential violation of the Consumer Credit Code as well as the Equal Credit Opportunity Act. On a credit sale, charges in excess of the cash price must be explicitly listed and identified as a cost of purchasing on credit.
- **Contracting vehicles for sale using different processing fees in the contracts.** The processing fee is allowed under the Consumer Credit Code to allow the creditor to recover the costs associated with processing applications, including but not limited to cost of services such as credit reports and credit investigations. Assessing different processing fee amounts for different accounts may lead to charges of discrimination in violation of the Equal Credit Opportunity Act.
- **Allowing a non-employee to sign the dealer's certificates of title.** A non-employee cannot reasonably serve as a representative of the dealership with legal authority to assign ownership of a vehicle.
- **Failing to execute 30-day notice title receipts.** UMV&PC Rules require dealers to provide specific notice to the purchaser that the title must be brought into the purchaser's name and all taxes paid within 30 days of the sale.
- **Failing to execute "We Owe" forms.** UMV&PC Rules require the execution of a "We Owe" form in retail sales to document whether any items or services are still owed to the purchaser. The form is also used to document that no other items or services were promised by the dealer.
- **Failing to make copies of certificates of title upon the sale of a vehicle.** UMV&PC Rules require dealers to document the sale of each motor vehicle. The documentation must include a copy of the front and back of the completely assigned certificate of title to each vehicle sold.
- **Failing to maintain temporary license plate records.** UMV&PC Rules require dealers to maintain a record of temporary license plates issued. The record shall include the unique sequential number, the date issued, the name of the purchaser and the year, make, model and vehicle identification number of the vehicle for which the temporary license plate was issued. It is recommended that the unique sequential number also be recorded on the bill of sale in order to readily cross-reference to the tag log.

- **Issuing more than one temporary license plate for a single sales transaction.** Dealers should issue only one temporary license plate per transaction. The customer is required to register the vehicle and pay all appropriate fees and taxes within 30 days. In the event that the temporary tag is lost or destroyed within that 30 day period, dealers are generally allowed to issue a second tag. The issuance should be noted on the bill of sale and on the tag log, also noting the reason for issuance. The information entered on the tag should be the same as the original tag, including the date of sale. It is not appropriate to enter any date other than the date of sale.
- **Failing to maintain requirements for dealership licensing.** Requirements for licensing include maintaining an established place of business with a vehicle display area, adequate customer parking, and office where the company records are stored. The location shall meet local zoning and occupancy requirements and shall be regularly occupied for the purpose of selling motor vehicles. A permanent business sign shall be erected and be visible from the roadway. A business telephone, listed with directory assistance, shall be available for use at the business location. A cell phone is acceptable. In addition, dealers are required to maintain a bond, currently in the amount of \$25,000, and carry liability insurance in the amount of \$25,000.
- **Failing to notify the Commission of a change of location of the business.** Any change of ownership or any other change, such as change of name or address, which makes Commission records inaccurate must be reported to the Commission immediately in writing on forms prescribed by the Commission.
- **Allowing salespersons to act as dealers.** Neither dealers nor salespersons shall engage in activities that facilitate salespersons acting as dealers. Prohibited activities include salespersons using their own funds to purchase vehicles for resale, then using the dealer's license to circumvent registration requirements and avoid payment of motor vehicle excise tax.
- **Employing unlicensed individuals to serve as salespersons.** Dealers are responsible for ensuring that all persons acting as salespersons in their employment are duly licensed by the UMV&PC.
- **Selling vehicles at locations other than the dealer's licensed location.** A dealer license authorizes the holder to sell vehicles from the location indicated on the license application. Sales from any other location, including the dealer's home, are strictly forbidden.
- **Submitting licensing applications to the Commission knowing that the information thereon is incorrect.** Applicants are required to certify the accuracy of information provided to the Commission. Certain information is made subject to penalty of perjury. Making material misstatement is grounds for denial or subsequent revocation of license or \$1,000 fine.
- **Using temporary tags for unauthorized purposes.** It is not now, nor has it ever been, legal to use a temporary license plate for anything other than placing on a vehicle that has been sold to a consumer by the dealership. The temporary license plates should not be installed on individually owned vehicles that have been sold. Temporary license plates should not be used for demonstration nor for transport.

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