



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **02-028**

AN ORDER to amend TRANS 139.01 (1), 139.04 (2) (b) and (3) (b), 139.05 (2) (g) and (i) and (8) (a) and 139.06 (8) (a), relating to motor vehicle trade practices.

Submitted by **DEPARTMENT OF TRANSPORTATION**

02-26-02 RECEIVED BY LEGISLATIVE COUNCIL.

03-19-02 REPORT SENT TO AGENCY.

RS:PC:ksm;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



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CLEARINGHOUSE RULE 02-028

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. Changes are made in ss. Trans 139.04 (2) (b) and 139.06 (8) (a) to update statutory references. However, it is not clear that the new cites are appropriate, given the context in which they are used. The department should review this.

b. In the effective date provision, the statutory cite should be "s. 227.22 (2) (intro.), Stats."

5. Clarity, Grammar, Punctuation and Use of Plain Language

In s. Trans 139.05 (8) (a), "sales-related" should be retained before "or lease-related."

The Wisconsin Department of Transportation proposes an order to amend TRANS 139.01(1), 139.04(2)(b) and (3)(b), 139.05(2)(g), (i) and (8)(a), and 139.06(8)(a), Wisconsin Administrative Code, relating to motor vehicle trade practices

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to Wis. Stat. ss. 218.0152(1) and 227.11, and interpreting Wis. Stat. ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, the Department of Transportation will hold a public hearing in **Room 421** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **4th** day of **April**, 2002, at **1:00 PM**, to consider the amendment of ch. Trans 139, Wisconsin Administrative Code, relating to motor vehicle trade practices.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business April 5, 2002, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Adam Boardman, Division of Motor Vehicles, Dealer Section, Room 806, P. O. Box 7911, Madison, Wisconsin 53707-7911.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: Wis. Stat. ss. 218.0152(1) and 227.11(2)

STATUTES INTERPRETED: Wis. Stat. ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144

General Summary of Proposed Rule. Currently, ch. Trans 139 prohibits motor vehicle dealers from charging a "processing" or "doc" (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle's delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in the amount contained in the contract for the dealer's services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 "Electronic Title/Plate Filing Fee" charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change will eliminate the prohibition on "doc" fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle's delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The proposed change would not impinge upon the dealer's ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a "doc" fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer "doc" fees.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be minimal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis. This proposed rule will have no adverse impact on small businesses.

Copies of Rule. Copies of this proposed rule can be obtained, without cost, by writing to Adam Boardman, Division of Motor Vehicles, Dealer Section, 4802 Sheboygan Avenue, Room 806, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 264-9538. Alternate formats of the proposed rule will be available to individuals upon request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by Wis. Stat. ss. 218.0152(1) and 227.11, ^{HW} the department of transportation hereby ^J proposes to amend a rule interpreting Wis. Stat. ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, relating to motor vehicle trade practices.

SECTION 1. Trans 139.01(1) is amended to read:

~~Trans 139.01(1) STATUTORY AUTHORITY.~~
Trans 139.01(1) **STATUTORY AUTHORITY.** As authorized by ss. 110.06, ~~218.01(5)~~ 218.0152 and 227.11, Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. ~~218.01(3)(a)6., 9., 14., 18., 19., and 22., 218.01(5m), 218.01(7a) and 342.16(1m)~~ 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, Stats., relating to motor vehicle trade practices.

SECTION 2. Trans 139.04(2)(b) and (3)(b) are amended to read:

Trans 139.04(2)(b) Prior to delivery of a new motor vehicle, the dealer licensee shall furnish to the purchaser a copy of the predelivery test and inspection report made pursuant to the manufacturer's specifications filed under s. ~~218.01(3)(a)22.~~ 218.0116(1)(km), Stats. The manufacturer shall file with the department a copy of any amended delivery and preparation obligations of its dealers at least 30 days prior to adoption of changes.

Leek

(3)(b) Any additions to or deletions from items contained on the label in par. (a) shall be identified by both description and retail price on a dealer supplemental price label affixed to the motor vehicle in a clear and conspicuous location. Items to be disclosed on dealer supplemental labels include, but are not limited to, dealer installed optional equipment or accessories, products or services performed by the dealer beyond the

manufacturer's presale delivery obligations, a service fee as allowed by s. Trans 139.05(8)(a), and final dealer asking price.

SECTION 3. Trans 139.05(2)(g), (i) and (8)(a) are amended to read:

Trans 139.05(2)(g) Reference price due on delivery and the known components of that price, including but not limited to, cash price, sales tax, license and title fees, downpayment, ~~and~~ trade-in allowance, and a service fee as allowed by s. Trans 139.05(8)(a). Rebates shall be referenced separately by dollar amount and assignment.

(i) Make specific reference to any penalty which may be assessed to the purchaser for non-acceptance of the vehicle. The penalty shall not exceed 5% of the cash price as provided by s. ~~218.01(5m)~~ 218.0141, Stats.

Trans 139.05(8)(a) ~~Except as provided in par. (b), a~~ A dealer licensee may not assess a purchaser or lessee an additional service fee or charge for completing any sales-related sales or lease-related vehicle inspection or forms which are required by law or rule, if the dealer has made full disclosure of the service fee to the prospective retail customer. The service fee may not be increased after this disclosure but may be reduced. Dealers that choose to charge a purchaser or lessee a service fee shall include the following disclosure on the purchase or lease contract: "A processing fee is not required by law, but may be charged to motor vehicle purchasers or lessees for services related to compliance with state and federal laws, verifications and public safety, and must be reasonable." Upon request from a purchaser, the selling dealer shall provide a written disclosure of the services and costs included in this service fee.

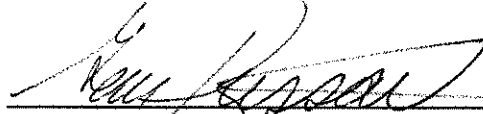
SECTION 4. Trans 139.06(8)(a) is amended to read:

Trans 139.06(8)(a) Manufacturers shall reimburse dealers for warranty repairs at the dealer's effective labor rate charged all customers as required by s. ~~218.01(3)(a)22-~~ 218.0116(1)(km), Stats., and at a reasonable allowance for parts replaced. Manufacturers shall notify dealers of the acceptance or denial of a warranty claim within 30 days of receipt of the claim, and shall make payment to the dealer within 30 days of acceptance of the claim, except for instances beyond the manufacturer's control.

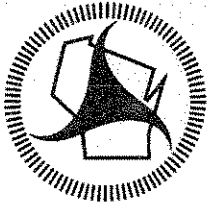
(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this ^{1 (CENTRO)} 26th day of February, 2002.



GENE E. KUSSART
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Thomas E. Carlsen, P.E.
Acting Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
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FAX: 608-267-6734
E-mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

April 25, 2002

The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 139**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 02-028

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **02-028**, relating to **motor vehicle trade practices**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson/Senator Judy Robson/Representative Glenn Grothman/
Roger Cross/Adam Boardman/Carson Frazier

CR 02-028

The Wisconsin Department of Transportation proposes an order to amend TRANS 139.03(3)(a), 139.04(3)(b), and 139.05(2)(g) and (8)(a), Wisconsin Administrative Code, relating to motor vehicle trade practices

**REPORT OF THE DEPARTMENT OF TRANSPORTATION
ON THE FINAL RULE DRAFT**

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

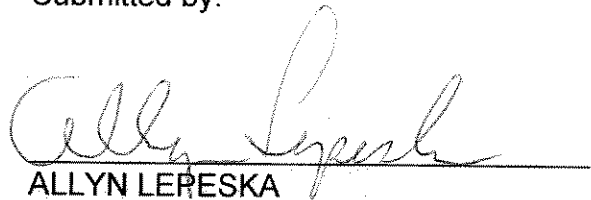
Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

Submitted by:



ALLYN LERESKA
Assistant General Counsel
Office of General Counsel
Department of Transportation
Room 115-B, Hill Farms State
Transportation Building
P. O. Box 7910
Madison, WI 53707-7910
(608) 266-0253

PART 1

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 218.0152(1) and 227.11, Stats.

STATUTES INTERPRETED: ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, Stats.

General Summary of Proposed Rule. Currently, ch. Trans 139 prohibits motor vehicle dealers from charging a "processing" or "doc" (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle's delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in the amount contained in the contract for the dealer's services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 "Electronic Title/Plate Filing Fee" charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change will eliminate the prohibition on "doc" fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle's delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The proposed change would not impinge upon the dealer's ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a "doc" fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer "doc" fees.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be minimal impact on state revenues or liabilities.

Copies of Rule. Copies of this proposed rule can be obtained, without cost, by writing to Adam Boardman, Division of Motor Vehicles, Dealer Section, 4802 Sheboygan Avenue, Room 806, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 264-9538. Alternate formats of the proposed rule will be available to individuals upon request.

PART 2
TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 218.0152(1) and 227.11, Stats., the department of transportation hereby proposes to amend a rule interpreting ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, Stats., relating to motor vehicle trade practices.

SECTION 1. Trans 139.03(3)(a) is amended to read:

Trans 139.03(3)(a) When the price of a motor vehicle is advertised by a dealer licensee, or a group of dealer licensees are named in a joint advertisement, the advertised price shall include all charges that shall be paid by the purchaser to acquire ownership of the vehicle with the exception of sales tax and title and registration fees. The advertised price does not need to include the amount of the service fee if the advertisement clearly and conspicuously discloses that the advertised price does not include the optional service fee. In the print media, the disclosure of the amount of the service fee or the disclosure that the advertised price does not include the optional service fee shall be printed in not less than 9-point boldface type or not smaller than the largest typeface within the advertisement. In other advertising media, the disclosure of the amount of service fee or the disclosure that the advertised price does not include the optional service fee should be clearly communicated to the intended audience.

SECTION 2. Trans 139.04(3)(b) is amended to read:

Trans 139.04(3)(b) Any additions to or deletions from items contained on the label in par. (a) shall be identified by both description and retail price on a dealer supplemental price label affixed to the motor vehicle in a clear and conspicuous location. Items to be

disclosed on dealer supplemental labels include, but are not limited to, dealer installed optional equipment or accessories, products or services performed by the dealer beyond the manufacturer's presale delivery obligations, a service fee as allowed by s. Trans 139.05(8)(a), and final dealer asking price.

SECTION 3. Trans 139.05(2)(g) and (8)(a) are amended to read:

Trans 139.05(2)(g) Reference price due on delivery and the known components of that price, including but not limited to, cash price, sales tax, license and title fees, downpayment, and trade-in allowance, and a service fee as allowed by s. Trans 139.05(8)(a). Rebates shall be referenced separately by dollar amount and assignment.

(8)(a) ~~Except as provided in par. (b),~~ A dealer licensee may not assess a purchaser or lessee an additional service fee or charge for completing any sales-related or lease-related vehicle inspection or forms which are required by law or rule if the dealer has made full disclosure of the service fee to the prospective retail customer. The service fee may not be increased after this disclosure but may be reduced. Dealers that choose to charge a purchaser or lessee a service fee shall include the following disclosure on the purchase or lease contract: "A service fee is not required by law, but may be charged to motor vehicle purchasers or lessees for services related to compliance with state and federal laws, verifications and public safety, and must be reasonable." Upon request from a purchaser, the selling dealer shall provide a written disclosure of the services included in this service fee. The Department reserves the right to audit fees to determine whether they are reasonable.

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Signed at Madison, Wisconsin, this 24 day of April, 2002.



THOMAS E. CARLSEN, P.E.
Acting Secretary
Wisconsin Department of Transportation

PART 4
CR 02-028

ANALYSIS OF FINAL DRAFT OF TRANS 139

(a) **Need for Amended Rule.** Currently, ch. Trans 139 prohibits motor vehicle dealers from charging a "processing" or "doc" (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle's delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in the amount contained in the contract for the dealer's services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 "Electronic Title/Plate Filing Fee" charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change will eliminate the prohibition on "doc" fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle's delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The proposed change would not impinge upon the dealer's ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a "doc" fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer "doc" fees.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on April 4, 2002. Modifications made as a result of testimony at the hearing were deleting the requirement of disclosing cost and revising the advertising disclosure requirement.

(c) **List of Persons who Appeared or Registered at Public Hearing.** The following list of persons appeared/registered at the hearing:

Gary Williams, President, Wisconsin Auto & Truck Dealers Association, P. O. Box 5345, Madison, WI 53705—**spoke in favor of the rule.** Written comments also submitted.

Bob Hudson, President, Middleton Ford and Chairman Elect, representing the Wisconsin Auto & Truck Dealers Association, 7520 Century Avenue, Middleton, WI 53562—**spoke in favor of the rule.** Written comments also provided.

Jean Ruda, General Manager/Owner of Ruda Chevrolet-Toyota, 104 8th Street, Monroe, WI 53566—**spoke in favor of the rule.**

Bob Krentz, Owner of Krentz Auto Mart, 215 Madison Avenue, Fort Atkinson, WI 53538—**spoke in favor of the rule.**

Steve Heuslein, President, LaCrosse Truck Center, Inc., 205 Causeway Boulevard, LaCrosse, WI 54603—**spoke in favor of the rule.** Written comments also provided.

Christine Wiener, Business Manager, Engelhart, Inc., 1589 Greenway Cross, Madison, WI 53713—**spoke in favor of the rule.** Written comments also provided.

Henry Clay White, Treasurer, Wisconsin Consumers League, 2123 N. 59th Street, Milwaukee, WI 53208—**spoke in opposition to the rule and for information.**

George Vetesnik, Owner of Vetesnik Power Sports, 27475 US Hwy. 14, Richland Center, WI 53581—**registered in favor of the rule.**

Gregg Vetesnik, Co-owner of Vetesnik Motors, Inc., 27475 U.S. Hwy. 14, Richland Center, WI 53581—**registered in favor of the rule.**

Ed Blume, Executive Director, Wisconsin Motorcycle Dealers Association, P. O. Box 2116, Madison, WI 53701-2116—**registered in favor of the rule.**

Joan Loden, State Manager, CVR, 18 Centerpoint Drive, LaPalma, CA 90623—**registered for information.**

Matt Waltz, Finance Manager, Pro Motorsports of Fond du Lac, 86 North Rolling Meadows Drive, Fond du Lac, WI 54937—**registered in favor of the rule.**

Additional written comments were received from:

Jeff King, Corporate Counsel, CarMax Auto Superstores, Inc., (804) 935-4554, **registered in favor of the rule.**

(d) **Response to Legislative Council Recommendations.** The Legislative Council report contained three comments. They are addressed as follows:

4.a. **Adequacy of References to Related Statutes, Rules and Forms.** The statutory reference changes were previously made by the Revisor of Statutes Bureau. Therefore, the Department removed these provisions from this particular rule making. If additional changes need to be made, they'll be made in a future rule making.

4.b. and 5. These comments have been incorporated.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule will have no adverse impact on small businesses.



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Terrence D. Mulcahy, P.E.
Secretary

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FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

January 15, 2002

Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS 139**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of ch. Trans 139. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosures

cc: David Schmiedicke/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Adam Boardman

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

This rule making will amend Chapter Trans 139 by removing the prohibition on service fees ("doc" fees).

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

Currently, the rule prohibits motor vehicle dealers from charging a "processing" or "doc" (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle's delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in the amount contained in the contract for the dealer's services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 "Electronic Title/Plate Filing Fee" charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change will eliminate the prohibition on "doc" fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle's delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The proposed change would not impinge upon the dealer's ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a "doc" fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer "doc" fees.

The policy alternatives are to eliminate the prohibition of service ("doc") fees, or to maintain the rule in its current form. Of the Wisconsin border states, Illinois, Michigan and Minnesota allow dealers to charge a "doc" fee, and Iowa law does not address "doc" fees. Allowing Wisconsin dealers to charge this fee will improve their competitive advantage. More importantly, it will allow dealers to more completely disclose the services for which consumers are charged in conjunction with the purchase of a motor vehicle.

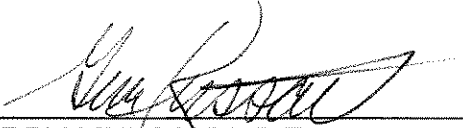
STATUTORY AUTHORITY FOR THE RULE:

Section 218.0152(1), Stats., as created by 1999 Wis. Act 31 ss. 248 to 253.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

Approximately 100 hours, which represents the collective time expected to be spent by the Dealer Section and the Office of General Counsel.

Signed at Madison, Wisconsin, this 15th day
of **January**, 2002.



for TERRY MULCAHY, P.E.
Secretary
Wisconsin Department of Transportation



Wisconsin Department of Transportation

www.dot.state.wi.us

Scott McCallum
Governor

Gene E. Kussart
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-mail: ogc.exec@dot.state.wi.us
February 26, 2002

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702


The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to **vehicle odometer disclosure requirements**, Trans 139

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,


Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Roger Cross
Adam Boardman

The Wisconsin Department of Transportation proposes an order to amend TRANS 139.01(1), 139.04(2)(b) and (3)(b), 139.05(2)(g), (i) and (8)(a), and 139.06(8)(a), Wisconsin Administrative Code, relating to motor vehicle trade practices

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to Wis. Stat. ss. 218.0152(1) and 227.11, and interpreting Wis. Stat. ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, the Department of Transportation will hold a public hearing in **Room 421** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **4th** day of **April**, 2002, at **1:00 PM**, to consider the amendment of ch. Trans 139, Wisconsin Administrative Code, relating to motor vehicle trade practices.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business April 5, 2002, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Adam Boardman, Division of Motor Vehicles, Dealer Section, Room 806, P. O. Box 7911, Madison, Wisconsin 53707-7911.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: Wis. Stat. ss. 218.0152(1) and 227.11

STATUTES INTERPRETED: Wis. Stat. ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144

General Summary of Proposed Rule. Currently, ch. Trans 139 prohibits motor vehicle dealers from charging a "processing" or "doc" (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle's delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in the amount contained in the contract for the dealer's services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 "Electronic Title/Plate Filing Fee" charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change will eliminate the prohibition on "doc" fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle's delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The proposed change would not impinge upon the dealer's ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a "doc" fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer "doc" fees.

Fiscal Impact. The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be minimal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis. This proposed rule will have no adverse impact on small businesses.

Copies of Rule. Copies of this proposed rule can be obtained, without cost, by writing to Adam Boardman, Division of Motor Vehicles, Dealer Section, 4802 Sheboygan Avenue, Room 806, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 264-9538. Alternate formats of the proposed rule will be available to individuals upon request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by Wis. Stat. ss. 218.0152(1) and 227.11, the department of transportation hereby proposes to amend a rule interpreting Wis. Stat. ss. 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, relating to motor vehicle trade practices.

SECTION 1. Trans 139.01(1) is amended to read:

Trans 139.01(1) STATUTORY AUTHORITY. As authorized by ss. 110.06, ~~218.01(5)~~ 218.0152 and 227.11, Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. ~~218.01(3)(a)6., 9., 14., 18., 19., and 22., 218.01(5m), 218.01(7a) and 342.16(1m)~~ 218.0116(1)(cm), (e), (gm), (im)2., (j) and (km), 218.0141 and 218.0144, Stats., relating to motor vehicle trade practices.

SECTION 2. Trans 139.04(2)(b) and (3)(b) are amended to read:

Trans 139.04(2)(b) Prior to delivery of a new motor vehicle, the dealer licensee shall furnish to the purchaser a copy of the predelivery test and inspection report made pursuant to the manufacturer's specifications filed under s. ~~218.01(3)(a)22.~~ 218.0116(1)(km), Stats. The manufacturer shall file with the department a copy of any amended delivery and preparation obligations of its dealers at least 30 days prior to adoption of changes.

(3)(b) Any additions to or deletions from items contained on the label in par. (a) shall be identified by both description and retail price on a dealer supplemental price label affixed to the motor vehicle in a clear and conspicuous location. Items to be disclosed on dealer supplemental labels include, but are not limited to, dealer installed optional equipment or accessories, products or services performed by the dealer beyond the

manufacturer's presale delivery obligations, a service fee as allowed by s. Trans 139.05(8)(a), and final dealer asking price.

SECTION 3. Trans 139.05(2)(g), (i) and (8)(a) are amended to read:

Trans 139.05(2)(g) Reference price due on delivery and the known components of that price, including but not limited to, cash price, sales tax, license and title fees, downpayment, ~~and trade-in allowance,~~ and a service fee as allowed by s. Trans 139.05(8)(a). Rebates shall be referenced separately by dollar amount and assignment.

(i) Make specific reference to any penalty which may be assessed to the purchaser for non-acceptance of the vehicle. The penalty shall not exceed 5% of the cash price as provided by s. ~~218.01(5m)~~ 218.0141, Stats.

Trans 139.05(8)(a) ~~Except as provided in par. (b), a~~ A dealer licensee may not assess a purchaser or lessee an additional service fee or charge for completing any sales-related sales or lease-related vehicle inspection or forms which are required by law or rule if the dealer has made full disclosure of the service fee to the prospective retail customer. The service fee may not be increased after this disclosure but may be reduced. Dealers that choose to charge a purchaser or lessee a service fee shall include the following disclosure on the purchase or lease contract: "A processing fee is not required by law, but may be charged to motor vehicle purchasers or lessees for services related to compliance with state and federal laws, verifications and public safety, and must be reasonable." Upon request from a purchaser, the selling dealer shall provide a written disclosure of the services and costs included in this service fee.

SECTION 4. Trans 139.06(8)(a) is amended to read:

Trans 139.06(8)(a) Manufacturers shall reimburse dealers for warranty repairs at the dealer's effective labor rate charged all customers as required by s. ~~218.01(3)(a)22-218.0116(1)(km)~~, Stats., and at a reasonable allowance for parts replaced. Manufacturers shall notify dealers of the acceptance or denial of a warranty claim within 30 days of receipt of the claim, and shall make payment to the dealer within 30 days of acceptance of the claim, except for instances beyond the manufacturer's control.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 26th day of February, 2002.



GENE E. KUSSART

Secretary

Wisconsin Department of Transportation