

If a manufacturer or lending institution is holding the title or MSO to ensure payment at time of sale, the dealer shall have for each such vehicle either a factory invoice, a completed dealer reassignment form, or a purchase contract evidencing trade-in or purchase.

(b) Written consignment agreement between owner and dealer for each vehicle not owned by the dealer and offered for sale by the dealer. Consignments between motor vehicle dealers are prohibited. Nor may wholesalers consign vehicles to motor vehicle dealers. Each consignment agreement shall contain:

1. Date of consignment;
2. Name of consignor and consignee;
3. Description of vehicle including year, make and identification number, a description of the prior use of the vehicle and an odometer disclosure statement as specified in s. Trans 154.08 (1). The odometer disclosure statement shall be separate from the rest of the consignment agreement;
4. Terms of agreement including duration of agreement, agreed upon minimum selling price at which the dealer is authorized to sell the vehicle for the consignee, the agreed disposition of any amount received for the vehicle above the minimum sales price, and the amount of the dealer's sales commission;
5. A statement by the owner that either the vehicle is clear of any liens, or identifying the lienholder and stating the amount of any outstanding lien balance;
6. Signatures by the vehicle owner and selling dealer; and
7. An agreement between the vehicle's owner and the dealer providing that the dealer will hold the title certificate for inspection by potential buyers during the period of consignment, that the title reassignment by the owner will not be signed until the vehicle is actually sold, and that if the vehicle is not sold during the duration of the consignment, the dealer will promptly return the title certificate to the owner along with the vehicle.

(c) Vehicle general condition disclosure statements, as required by s. Trans 139.04 (4).

(d) Odometer disclosure statement from prior owner and odometer disclosure statement to subsequent purchaser, as required by s. Trans 139.04 (7).

(e) Original or copy of motor vehicle purchase contracts, as required by s. Trans 139.05, purchase orders and invoices. Copy of MV1 Wisconsin title and registration application forms completed for each vehicle purchaser as additional evidence of sale and information regarding collection of sales tax and Wisconsin title and registration fees, when applicable.

(f) 1. The following information shall be kept on every used vehicle, including executive and demonstrator vehicles, bought, sold, exchanged or consigned:

- a. Date of acquisition of the vehicle.

- b. Name and address of the person from whom the vehicle was acquired.
- c. The year, make and vehicle identification number, or VIN, of the vehicle.
- d. The date of the disposition of the vehicle.
- e. The name and address of the person to whom any vehicle was disposed.

2. Persons requiring a license who do not maintain their records in an electronic data processing record keeping system shall maintain the information required in subd. 1 in a permanently bound book containing consecutively pre-numbered pages with horizontal line ruling. Initial purchase entries shall be made immediately as each vehicle is acquired and sales information entered on the same line at subsequent time of sale. All entries shall be consecutively entered in ink and be legible. No blank horizontal lines shall be allowed. Vertical dividing lines shall be provided, and may be manually drawn, to divide the following information as shown:

Date Acquired	Acquired From Name & Address	Year-Make-VIN	Date Sold or Disposed of	Disposed of or Sold to Name & Address
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3. Persons requiring a license who maintain their records in an electronic data processing record keeping system shall maintain the information required in subd. 1 in compliance with the following requirements:

- a. One record shall contain all of the information specified in subd. 1.
- b. Initial purchase entries shall be made immediately as acquired, and sales information shall be completed on the same record at the time of sale.
- c. The information shall be accessible for inspection and shall be retrievable electronically by the date acquired, name of person from whom the vehicle was acquired, VIN, date sold, and name of person to whom the vehicle was disposed.
- d. All records shall be retrievable during the inspection and a printer shall be kept on site to provide hard copy if requested. Hard copy shall include all information in the same format as specified in par. (f) 2. Horizontal and vertical lines are not required.
- e. There is an employe of the person requiring a license available to retrieve the records during the hours of operation of the business.

(g) The used vehicle information as specified in par. (f) shall be maintained for a period of 5 years, as required by s. 342.16, Stats., and all other required records shall be maintained for a period of 5 years from the date of sale, including facsimile copies of factory invoices, dealer re-assignment forms, consignment agreements, purchase contracts, MV1 or MV11 Wisconsin title and registration applications, used motor vehicle disclosure labels, regular and conforming power of attorney forms, prior owner odometer disclosure statements, dealer's subsequent odometer disclosure statements, lessor's notices to lessees relating to odometer dis-

closure required at end of lease, and lessee's odometer disclosure statement completed at end of lease. The records shall be kept in the place of business during business hours and shall be open to inspection and copying by a representative of the department during reasonable business hours.

(h) Persons requiring a license who maintain their used vehicle records as specified in par. (f) in an electronic data processing record keeping system can satisfy the record retention requirement in par. (g) with hard copy of their records when memory limitations of the electronic system prohibit electronic storage for the specified period. Hard copy shall meet the following requirements:

1. Hard copy shall include only those records of vehicles that have been disposed of. Incomplete records of vehicles acquired and still in inventory must be maintained on the electronic system until disposed of and the record is completed.

2. Hard copy shall include all information in the same format as specified in par. (f) 2. Horizontal and vertical line ruling shall not be required.

3. Hard copy shall be printed in the order of the date acquired and each report shall contain at least 12 consecutive months of vehicle acquisitions.

4. Hard copy shall contain system generated page numbers and the current date on every page.

(2) Motor vehicle wholesalers (used vehicles), items included in sub. (1) (a), (d), (f) and (g) as limited to used vehicle record book, invoices, dealer reassignment forms, regular and conforming power of attorney forms, prior owner odometer disclosure statements and wholesaler's subsequent odometer disclosure statements.

History: Cr. Register, May, 1966, No. 125, eff. 6-1-66; r. and recr. Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.02 and am., Register, July, 1981, No. 307, eff. 8-1-81; am. (1) (c) to (e), Register, December, 1982, No. 324, eff. 1-1-83; am. (intro.) (1) (b) 5. and 6., r. (1) (b) r. and (2), renum. (3) to be (2), Register, October, 1984, No. 346, eff. 11-1-84; am. (1) (b), cr. (1) (b) 7., Register, June, 1991, No. 426, eff. 7-1-91; am. (1) (b) 3., (d), (g) and (2), renum. (1) (f) to be (1) (f) 2., cr. (1) (f) 1. and 3. and (h), Register, January, 1996, No. 481, eff. 2-1-96.

Trans 138.05 Auction dealers. Motor vehicle wholesale auction dealers shall:

(1) For each vehicle offered for sale, either require the consigning dealer deposit clear title or furnish title insurance at time of sale.

(2) Prominently display the selling dealer's name and address, and state in which the vehicle is titled, on each vehicle offered for sale, prior to each vehicle entering the auction sale building. Recommended methods are either affixing the information on the side window by grease pencil, or entering the information on a card plainly visible through either the windshield or side window.

(3) Retain a copy of a properly completed, signed wholesale auction dealer reassignment form for each vehicle sold with a nonconforming title as required under s. Trans 154.03 (3) (d) 3, and furnish 2 copies to the purchasing dealer and one copy to the selling dealer.

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(4) For each motor vehicle sold at an auction sale, establish and maintain for 5 years those records as required under s. Trans 154.12 (3) as authorized under s. 342.157, Stats.

(5) Rescind the vehicle sale transaction if unable to furnish clear title to the purchasing dealer within 12 calendar days following date of sale, if so requested by the purchasing dealer.

(6) Required records shall be kept in the place of business during business hours and shall be open to inspection and copying by a representative of the department during reasonable business hours.

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.03 and am. Register, July, 1981, No. 307, eff. 8-1-81; am. (5), Register, June, 1991, No. 426, eff. 7-1-91; am. (3), r. and recr. (4), cr. (6), Register, January, 1996, No. 481, eff. 2-1-96.

Trans 138.06 Business signs. All motor vehicle dealers, motor vehicle wholesalers and motor vehicle wholesale auction dealers shall display the following signs:

(1) An exterior business sign in compliance with s. 100.18 (5), Stats. The sign shall state the name of the licensee, as shown on the department license and any other name under which the licensee does business as a motor vehicle dealer, wholesaler or auction dealer. The sign shall have lettering a minimum of 4 inches high, unless smaller dimensions are required in order to comply with a local zoning or sign ordinance.

(2) A sign posted on or adjacent to the entrance door describing the dealer's business hours.

History: Cr. Register, May, 1966, No. 125, eff. 6-1-66; renum. from MVD 13.03 and am. Register, April, 1977, No. 256, eff. 5-1-77; renum. from MVD 13.04, Register, July, 1981, No. 307, eff. 8-1-81; am. Register, October, 1984, No. 346, eff. 11-1-84; am. (intro.), cr. (1), (2), Register, June, 1991, No. 426, eff. 7-1-91.

Trans 138.07 Lease agreement. (1) Motor vehicle dealers and wholesalers shall furnish a copy of a signed lease agreement with the dealer license application whenever first applying for a license for a business location, unless the business property is owned by the dealership entity.

(2) Such lease agreement shall name the dealer applicant as lessee and shall contain the following items:

- (a) Names of parties to the agreement;
- (b) Consideration for lease agreement;
- (c) Description of business premises;
- (d) Terms of lease; and
- (e) Signatures of parties to the agreement.

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (1), Register, October, 1984, No. 346, eff. 11-1-84; am. (1), Register, June, 1991, No. 426, eff. 7-1-91.

Trans 138.08 Temporary sales locations. A motor vehicle dealer shall be permitted to display and sell vehicles at a temporary site other than its licensed place of business, providing that:

(1) Each dealer furnishes the department with written notification of the sale at least 10 days in advance.

(2) The duration of each sale shall not exceed 10 days.

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(3) A dealer may not participate in more than 6 sales during each licensing (calendar) year.

(4) Each participating dealer shall furnish each consumer a written notice of the 3-day "cooling off" rights pursuant to s. 423.203, Stats., (The Wisconsin Consumer Act).

History: Cr. Register, July, 1981, No. 307, eff. 8-1-81; am. (intro.), Register, October, 1984, No. 346, eff. 11-1-84.

Trans 138.09 Effect of suspension, denial, revocation or voluntary surrender of license. (1) **SUSPENSION.** (a) No motor vehicle dealer may sell, offer to sell, or buy vehicles while his or her license is suspended.

(b) A motor vehicle dealer also engaged in business activities on the same premises which do not require a license issued by the department, such as the sale of motor vehicle accessories or repair of motor vehicles, may continue to conduct this unlicensed business while his or her license is suspended. However, if such activities are conducted within the indoor facilities the dealer ordinarily uses to display motor vehicles offered for sale or lease with an option of purchase, then during the suspension all motor vehicles offered for sale or lease shall either be removed from those facilities or moved to a location in those facilities not accessible to consumers.

(c) No licensed salesperson may be present at the dealership during the period of suspension, without the written permission of the department. The department may not grant permission unless the particular conditions of the salesperson's employment require his or her presence to perform duties unrelated to the activities regulated by the department under ch. 218, Stats.

(2) **DENIAL.** (a) Except as provided in par. (b), no person whose application for an initial motor vehicle dealer license has been denied may do business as a motor vehicle dealer.

(b) If the applicant held a valid license in the previous license year, the applicant may continue to do business after his or her application has been denied, as authorized under s. 227.51 (2), Stats., provided the applicant meets all of the following requirements:

1. At the time of the license application, the applicant was a motor vehicle dealer whose motor vehicle dealer license had neither expired nor been revoked.

2. The applicant applied for an identical license for the same dealership and was denied.

3. The applicant requested a hearing to review the license denial within 30 days of the department's denial.

4. The applicant paid all fees required for issuance of dealer registration plates for the new licensing period.

5. The applicant satisfied all of the requirements of s. 227.51 (2), Stats.

(c) The department shall provide an applicant to whom par. (b) applies with dealer registration plates, salesperson licenses and a license for the dealership. The validity of all such licenses is conditional, pending the outcome of the review of the license denial. In the event the review by the division of hearings and appeals affirms the license denial, the dealer

shall collect and surrender to the department all registration plates, salesperson licenses and the dealer license issued under this paragraph. Salesperson licenses shall be surrendered immediately. Registration plates and the dealer license shall be surrendered within 30 days.

(d) The department may, upon request, permit an existing motor vehicle dealer continuously licensed during the preceding year, whose application for a license during the next license period is denied, up to 30 days to sell the motor vehicles in the dealer's possession at the time of the denial, provided:

1. The dealer agrees to observe all special conditions imposed by the department.

2. The dealer's request is received by the department within 7 days of the date when the denial takes place and includes a list of all motor vehicles in his or her possession, including the vehicle identification number of each vehicle.

3. The dealer physically possesses the title certificate for each vehicle to be offered for sale.

4. Unless par. (b) applies, a dealer whose license has been denied may not offer, sell or lease with an option of purchase any motor vehicles to retail buyers and may not buy any vehicles, or accept motor vehicle trade-ins or consignments, during the 30-day period.

5. The 30-day period begins on the date of the department's letter denying the license. However, if par. (b) applies, the 30-day period begins on the date of the order of the division of hearings and appeals affirming the department's denial of the license.

(3) **REVOCAION.** (a) Except as provided in par. (b), no person whose motor vehicle dealer license has been revoked may do business as a motor vehicle dealer after the effective date of the revocation.

(b) Unless prohibited by the order of revocation, the department may, upon request, allow a motor vehicle dealer whose license is revoked an extension period, up to 30 days beyond the otherwise effective date of the revocation, to sell the motor vehicles in the dealer's possession at the time of the revocation, provided:

1. The dealer agrees to observe all special conditions imposed by the department.

2. The dealer's request includes a list of all motor vehicles in his or her possession including the vehicle identification number of each.

3. The dealer physically possesses the title certificate for each vehicle to be offered for sale.

4. The request is made prior to the effective date of the revocation.

5. The dealer does not offer, sell or lease with an option to purchase motor vehicles to retail buyers and does not buy any vehicles or accept motor vehicle trade-ins or consignments.

(4) **VOLUNTARY SURRENDER.** The department may permit a motor vehicle dealer up to 30 days to sell motor vehicles in the dealer's possession at the time the dealer voluntarily surrenders his or her license, provided:

(a) The dealer agrees to observe all special conditions imposed by the department.

(b) The dealer provides the department a list of all motor vehicles in his or her possession, including their vehicle identification numbers, within 7 days of the date when the license is received by the department.

(c) The dealer physically possesses the title certificate for each vehicle to be offered for sale.

(d) The dealer does not offer, sell, or lease with an option to purchase vehicles to retail buyers and may not buy any vehicles, or accept motor vehicle trade-ins or consignments, during the 30-day period.

(e) The 30-day period begins on the date the department receives the license or the list of vehicles in the dealer's possession, whichever is later.

History: Cr. Register, June, 1991, No. 426, eff. 7-1-91; am. (2) (c) and (d) 5., Register, January, 1996, No. 481, eff. 2-1-96.