

Chapter Trans 141

ELECTRONIC PROCESSING OF MOTOR VEHICLE TITLES AND REGISTRATIONS BY MOTOR VEHICLE DEALERS

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Trans 141.01 Purpose and scope. This chapter interprets ss. 218.0116 (1) (gr), 218.0146 (4) and 342.16 (1) (a) and (am), Stats., which requires all licensed Wisconsin motor vehicle dealers to process motor vehicle titles and registrations electronically for vehicles they sell, unless exempted by the department.

History: CR 06-101: cr. Register April 2007 No. 616, eff. 5-1-07.

Trans 141.02 Definitions. The words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) "APPS" means the automated processing partnership system program established by the DMV, in which DMV contracts with agents and vendors to provide vehicle registration and titling services.

(2) "Certificate of registration" means the certificate of registration as described in s. 341.11, Stats., which documents that the proper vehicle registration fee has been paid for the current registration period.

(3) "Certificate of title" means the certificate of title for a vehicle as required in ch. 342, Stats.

(4) "Department" means the Wisconsin department of transportation.

(5) "DMV" means the Wisconsin department of transportation division of motor vehicles.

(6) "Exempt" means that a dealer is not required or not authorized to process certificates of title or certificates of registration.

(7) "Motor vehicle dealer" or "dealer" means a motor vehicle dealer as defined in s. 218.0101 (23), Stats.

(8) "Process" means to electronically submit applications for certificates of title or certificates of registration and update the DMV vehicle record.

(9) "Vendor" means a person, business or organization that contracts with the DMV to provide a host computer system by which agents may obtain access to specified information services of the DMV in order to process registration and title transactions.

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Trans 141.03 Requirement to process certificates of title and registration. (1) Unless exempt under s. Trans 141.06, a licensed Wisconsin motor vehicle dealer shall process certificates of title and registration for motor vehicles sold by the dealer. A licensed motor vehicle dealer may satisfy this requirement by contracting with the DMV under s. Trans 141.04 or by using the e-MV11 Internet-based web application. A motor vehicle dealer not previously licensed in Wisconsin shall begin processing title and registration applications within 30 days after the department approves the dealer's initial Wisconsin motor vehicle dealer license.

(2) A licensed Wisconsin motor vehicle dealer who processes title and registration applications using the e-MV11 Internet-based web application shall apply to the DMV on the DMV application form and shall comply with all applicable requirements,

including those related to persons who have access to information subject to the federal Driver Privacy Protection Act, 18 USC 2721-2725.

Note: Form MV11 can be obtained by writing to or calling GMA Printing, 136 West Main Street, Whitewater, WI 53190—(800) 747-4647 (phone), (262) 473-4575 (fax); Reynolds & Reynolds, 10533 West National Avenue, Suite 205, Milwaukee, WI 53227—(877) 287-3183 (phone), (800) 531-9055 (fax); or WAT-DASI Forms, P. O. Box 5345, Madison, WI 53705—(800) 236-7672 (phone), (608) 251-5557 (fax).

(3) The motor vehicle dealer shall, if required by the department, furnish a supplemental bond in addition to the bond required for licensing as a motor vehicle dealer under s. 218.0114 (5) (a), Stats., in the following circumstances:

(a) For a dealer that the department determines has insufficient funds to timely pay departmental registration and titling fees.

(b) For a dealer that the department determines has a history of errors in processing certificates of title and registration, or that has a history of not processing certificates of title and registration within statutory time requirements.

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Trans 141.04 Dealer participation in the APPS program. (1) A licensed Wisconsin motor vehicle dealer may satisfy its obligations under s. 342.16 (1) (am), Stats., by contracting with the DMV as an agent in the APPS program under s. 341.21 (2), Stats. A dealer who participates in the APPS program shall comply with all of the following:

(a) The motor vehicle dealer shall enter into an agreement with a vendor that is approved by the DMV under ch. Trans 156. A motor vehicle dealer may request service from, and enter into an agreement with, only one vendor.

(b) The motor vehicle dealer shall submit to the DMV a letter on company letterhead requesting appointment as a provider of processing or distribution services for vehicle registration or certificates of title. The letter shall include the legal business name and address of the physical location of the business.

(c) The motor vehicle dealer shall, if required by the department, furnish a supplemental bond in addition to the bond required for licensing as a motor vehicle dealer under s. 218.0114 (5) (a), Stats., in the following circumstances:

1. For a dealer that the department determines has insufficient funds to timely pay departmental registration and titling fees.

2. For a dealer that the department determines has a history of errors in processing certificates of title and registration, or that has a history of not processing certificates of title and registration within statutory time requirements.

(d) The motor vehicle dealer shall submit a signed agent contract to the DMV.

(e) The motor vehicle dealer shall be in compliance with all applicable laws governing the applicant's industry and not be under investigation by any regulatory or enforcement agency for suspected violations of applicable laws or regulations.

(f) The motor vehicle dealer shall employ at least one primary processing person and have at least one other employee trained as

a back-up in order to ensure adequate service during business hours and the timely submission to DMV of reports and documentation of registration and titling transactions.

Note: Participation in the APPS program allows a dealer to issue license plates to customers as well as process certificates of title and registration.

(2) The maximum fees that an agent who is a motor vehicle dealer participating in the APPS program may charge a customer shall be specified in the contract under sub. (1) (d). A motor vehicle dealer may charge a customer any amount less than the maximum fee.

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Trans 141.05 Termination and nonrenewal of APPS dealer contracts. (1) DMV may terminate or refuse to renew an APPS dealer contract on any of the following grounds:

(a) Failure to provide information requested by DMV relating to the motor vehicle dealer's financial standing, solvency or compliance with motor vehicle related laws.

(b) DMV has reasonable cause to conclude that the financial responsibility of the dealer licensee as prescribed in ch. Trans 140 is insufficient.

(c) DMV has reasonable cause to conclude that the dealer is not in compliance with ss. 218.0101 to 218.0163, Stats., or rules interpreting ss. 218.0101 to 218.0163, Stats., if the violation constitutes grounds for denial, suspension or revocation of the dealer's license, stipulation to a conditional license or special order, the assessment of civil forfeitures or fines, or criminal prosecution.

(2) Reasonable cause under sub. (1) includes situations in which any dealer licensee has been found by the department, the division of hearings and appeals, or a court of law, to have violated ch. 218, Stats., or rules interpreting ch. 218, Stats., during the current or immediately preceding licensing period, or when the dealership has not given sufficient assurance that it has taken reasonable steps to prevent the recurrence of similar violations in future licensing periods.

(3) If a dealer's actions warrant termination of the agent or vendor from the APPS program, DMV shall invoke termination provisions which are stated in the APPS contract between DMV and the agent or vendor. If a dealer is terminated, the dealer may not process certificates of title and registration. The dealer shall pay to the department the surcharge specified in s. Trans 141.07 (2) (b), and shall be subject to sanctions specified in s. Trans 141.06 (1) (c).

(4) If a dealer terminates the dealer's APPS contract, the dealer remains subject to the requirement of the law to process title and registration applications using the e-MV11 Internet-based web application offered by the department, and to all requirements of this chapter.

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Trans 141.06 Exemptions from requirement to process certificates of title and registration. (1) EXEMPT MOTOR VEHICLE DEALERS.

(a) A motor vehicle dealer is not required to process certificates of title and registration if the motor vehicle dealer sells an average of 48 or fewer vehicles per year.

(b) The department shall deny a motor vehicle dealer the authority to process certificates of title and registration for any of the following reasons:

1. DMV has reasonable cause to conclude that the financial responsibility of the motor vehicle dealer as prescribed in ch. Trans 140, or the dealer's financial situation, as determined by the department in connection with the department review of dealer licensing requirements is insufficient.

2. DMV has reasonable cause to conclude that the accuracy or timeliness of the certificate of title and registration transactions performed by the motor vehicle dealer are insufficient.

3. Failure or refusal of the motor vehicle dealer to provide DMV with any documents or information required for completion of a motor vehicle sales transaction.

4. DMV has reasonable cause to conclude that the motor vehicle dealer is not in compliance with any provision of written policies and procedures regarding electronic processing, including failure to successfully complete departmental training and technical assistance provided or approved by the department.

5. Failure to provide information requested by DMV relating to a motor vehicle dealer's financial standing, solvency or compliance with motor vehicle related laws.

6. DMV has reasonable cause to conclude that the dealer is not in compliance with ss. 218.0101 to 218.0163, Stats., or rules interpreting ss. 218.0101 to 218.0163, Stats., where the violation constitutes grounds for denial, suspension or revocation of the dealer's license, stipulation to a conditional license or special order, the assessment of civil forfeitures or fines, or criminal prosecution, including insufficient funds. Reasonable cause includes situations in which any dealer licensee has been found by the department, the division of hearings and appeals, or a court of law, to have violated ch. 218, Stats., or rules interpreting ch. 218, Stats., during the current or immediately preceding licensing period, or when the dealership has not given sufficient assurance that it has taken reasonable steps to prevent the recurrence of similar violations in future licensing periods.

(c) If the department determines that any of the conditions in par. (b) are persistent and present after a reasonable time to cure, the department shall invoke sanctions against the dealer. Sanctions include any of the possible sanctions in s. 218.0116, Stats. A continuum of disciplinary actions may be taken beginning with informal advice, verbal warnings, advisory and warning letters, civil forfeitures, citations, special orders including suspension, denial, or revocation of the dealer's license to operate as a motor vehicle dealer.

(2) EXEMPT CERTIFICATES OF TITLE AND REGISTRATION. A motor vehicle dealer is not required to process certificate of title and registration transactions for a vehicle that is prohibited from successful registration processing because of an express limitation on the vehicle title, registration, or customer record, or on the e-MV11 internet-based web application or APPS. For these specifically identified vehicle transactions, the department may not charge a motor vehicle dealer a transaction processing fee for processing applications on behalf of the dealer. A motor vehicle dealer is required to submit certificate of title and registration applications under this subsection to the department within 7 business days after a motor vehicle sale.

Note: DMV will be continually updating the e-MV11 internet-based web application and requiring vendor updating of APPS. As updates are completed, additional transaction types will be mandated for dealer processing. DMV will notify all applicable dealers before new transaction types become subject to mandatory processing.

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Trans 141.07 Fees. (1) FEES PAID TO MOTOR VEHICLE DEALERS BY CONSUMERS.

A motor vehicle dealer may charge a fee to consumers for processing certificate of title and registration applications. The fee shall be a reasonable amount, as determined by the department. The fee shall be included in the service fee that the dealer may charge a consumer under s. Trans 139.05 (8) (b). A motor vehicle dealer may not charge the consumer any amount to offset any surcharge that the dealer is required to pay under this section.

(2) FEES PAID BY MOTOR VEHICLE DEALERS TO THE DEPARTMENT.

(a) Any motor vehicle dealer who is not required to process certificates of title and registration under s. Trans 141.06 (1) (a) shall pay the department a fee for each certificate of title and registration transaction that the department processes on behalf of the dealer. The fee is \$15 per transaction. If an exempt motor vehicle dealer who is not required to process certificates of title and registration under s. Trans 141.06 (1) (a) submits to DMV by fast ser-

vice or by a customer service center an application to be processed by DMV, the dealer shall pay the department the \$15 transaction fee, in addition to any other required fees such as counter service fee or fast service fee.

(b) 1. Any exempt motor vehicle dealer who is not authorized to process certificates of title and registration under s. Trans 141.06 (1) (b) shall pay the department a fee for each certificate of title and registration transaction that the department processes on behalf of the dealer. The fee shall include the following:

a. A fee of \$15 per transaction to process the transaction.

b. A surcharge of \$50 per transaction. The dealer may not charge this surcharge to the consumer.

2. In addition to the fee and the surcharge that the dealer shall pay to DMV, the department may begin disciplinary actions against the dealer's license as described in s. Trans 141.06 (1) (c). If an exempt motor vehicle dealer who is not authorized to process certificates of title and registration under s. Trans 141.06 (1) (b) submits to DMV by fast service or by a customer service center an application to be processed by DMV, the dealer shall pay the department the \$15 transaction fee and the \$50 surcharge, in addition to any other required fees such as counter service fee or fast service fee.

(c) 1. Any non-exempt motor vehicle dealer who fails to process certificates of title and registration as required under s. Trans 141.03 shall pay the department a fee for each certificate of title and registration transaction that the department processes on behalf of the dealer. The fee shall include the following:

a. A fee of \$15 per transaction to process the transaction.

b. A surcharge of \$50 per transaction. The dealer may not charge this surcharge to the consumer.

2. In addition to the fee and the surcharge that the non-exempt dealer shall pay to DMV, the department may begin disciplinary actions against the dealer's license as described in s. Trans 141.06

(1) (c). If a non-exempt motor vehicle dealer submits to DMV by fast service or by a customer service center an application to be processed by DMV, the dealer shall nevertheless pay the department the \$15 transaction fee and the \$50 surcharge, in addition to any other required fees such as counter service fee or fast service fee.

(d) The department may not charge a processing fee to any motor vehicle dealer for any transaction that the dealer is not required to process under s. Trans 141.06 (2).

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Trans 141.08 Records. (1) A motor vehicle dealer shall forward to the department within one business day after completing processing a transaction all of the following paper documents:

(a) Original certificate of title that was submitted from the prior owner, or original manufacturers statement of origin for a newly titled vehicle.

(b) Copy of the receipt generated by the computer at the completion of the transaction, or the original signed copy of the application for certificate of title.

(c) Original signed odometer statement on the MV11 form if the odometer statement is not included on the certificate of title from the prior owner or on the original manufacturers statement of origin for a newly titled vehicle.

Note: Form MV11 can be obtained by writing to or calling GMA Printing, 136 West Main Street, Whitewater, WI 53190—(800) 747-4647 (phone), (262) 473-4575 (fax); Reynolds & Reynolds, 10533 West National Avenue, Suite 205, Milwaukee, WI 53227—(877) 287-3183 (phone), (800) 531-9055 (fax); or WATDASI Forms, P. O. Box 5345, Madison, WI 53705—(800) 236-7672 (phone), (608) 251-5557 (fax).

(2) All records required to be kept by a motor vehicle dealer under ch. Trans 138 and this chapter shall be retained for 5 years. The records may be retained in electronic format as determined by the department, or in paper format as determined by the department.

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