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Chapter Trans 138

DEALER FACILITIES, RECORDS, AND LICENSES

Trans 138.01 Authority, purpose and scope.
Trans 138.02 Definitions.
Trans 138.025 Motor vehicle dealer license required; exceptions.
Trans 138.027 Wholesaler.
Trans 138.028 Retail auctioneers; limited exemption.
Trans 138.03 Dealer business facilities.
Trans 138.04 Records kept.
Trans 138.05 Auction dealers.
Trans 138.06 Business signs.
Trans 138.07 Lease agreement.
Trans 138.08 Temporary sales locations.
Trans 138.09 Effect of suspension, denial, revocation or voluntary surrender of license.

Note: Chapter MVD 13 as it existed on July 31, 1981 was renumbered to be chapter Trans 138 effective August 1, 1981.

Trans 138.01 Authority, purpose and scope. (1) As authorized by ss. 85.16 (1), 218.0152, and 227.11 (2), Stats., the purpose of this chapter is to interpret ss. 218.0101 (6) and (23) (a), 218.0114 (14) (a), 218.0116 (1) (om), (3), and (5), 218.0119, 218.0146, 218.30, 218.32 (2) and (4) (c), 227.51 (2), 341.51 (3), and 342.16 (1m) and (2), Stats., relating to the activities defining a motor vehicle dealer, wholesale dealer, and motor vehicle auction dealer, and exceptions thereto; the records and facilities required of such dealers; and the business activities of motor vehicle dealers during or after suspensions, revocations, denials or voluntary surrenders of licenses.

(2) This chapter pertains to any person applying for or holding a Wisconsin motor vehicle dealer, motor vehicle wholesale dealer, or motor vehicle auction dealer license.

(3) One purpose of this chapter is to interpret the definition of a motor vehicle dealer found in s. 218.0101, Stats., and that section's requirement that all motor vehicle dealers be licensed. The definition of a dealer is intended to cover a broad range of business activities relating to the sale of motor vehicles, yet it is also designed to give limited exemptions and thus ensure flexibility for individuals and businesses who wish to dispose of their private vehicles and provide advertising or other general business services to dealers.

History: Cr. Register, July, 1981, No. 307, eff. 8−1−81; am. (1) and (2), Register, October, 1984, No. 346, eff. 11−1−84; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1987, No. 384; am. (1), cr. (3), Register, June, 1991, No. 426, eff. 7−1−91; **corrections in (1) and (3) made under s. 13.93 (2m) (b) 7., Stats**.

Trans 138.02 Definitions. Words and phrases defined in ch. 218, Stats., have the same meaning in this chapter unless additional interpretations are specified.

(1) "Auction dealer" means a person who for compensation takes possession, whether through consignment or bailment or any other arrangement, of a motor vehicle owned by a motor vehicle dealer and offers it for sale at an auction open only to motor vehicle dealers or wholesalers.

(2) "Compensation" means commission, money, goods, services, or other thing of value. The term includes any increase in the value or attractiveness of membership, affiliation, or employment with a club, association, corporation, government agency, or other organization.

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

(4) "Incidental sales" mean sales of motor vehicles incidental to their owner's primary business activities. Vehicle sales are incidental to their owner's primary business activities if the owner provides a service, manufactures a product, or is engaged in some other clearly identifiable business activity which is demonstrably distinct from the sale of motor vehicles or their lease with an option of purchase; and if the vehicles are purchased and used primarily to serve the transportation needs of the owner's business or its employes in their work.

(5) "Lease with the option of purchase" means to rent or lease a vehicle to a person with an option or right to buy the vehicle, whether or not the option or right to purchase is described in the rental or leasing contract. The term includes offering contracts to prospective lessees.

(6) "Negotiate a sale or exchange of an interest in motor vehicles"means any bargaining by a person other than a prospective retail buyer over the terms of a motor vehicle sale, exchange, or lease with an option of purchase. The term includes establishing or offering to establish agreements with dealers or other vehicle owners concerning the conditions under which the owners may sell their vehicles or lease them with an option of purchase to any person or group of persons. Such conditions may include vehicle prices or discounts, formulas for determining prices, or criteria for determining a consumer's eligibility for these or other conditions of sale.

(7) "Perfect or case bound" means a book that is permanently bound by gluing, stitching or both.

(8) "Privately titled" means a vehicle owned by a person who acquired the vehicle through a bona fide sales transaction in which anything of substantial value was exchanged to acquire ownership of the vehicle for purposes other than lease, rental or resale, and the person is not a motor vehicle manufacturer, final stage manufacturer, converter, distributor, wholesaler, motor vehicle dealer, auction dealer, or leasing or rental company.

(9) "Retail auctioneer" means a person who for compensation takes possession of a motor vehicle owned by another person, whether through consignment or bailment or any other arrangement, and offers the vehicle for sale to retail buyers by auction.

(10) "Sell" means to transfer or offer to transfer ownership of a motor vehicle for compensation, whether or not the person executing or offering to execute the transfer owns the vehicle. Selling includes displaying, depicting, or describing the vehicle to potential buyers and indicating by any means that the person is willing to sell the vehicle or accept an order for the vehicle's future sale or the sale of a similar vehicle. The term also includes executing or offering to execute a lease with a requirement that the lessee purchase the vehicle.

Note: This definition of "selling" includes the activities of consignment dealers, who may display vehicles and negotiate sales on behalf of the vehicles' owners but do not own the vehicles themselves.

(11) (a) "Services aiding the sale" of motor vehicles means describing or displaying specific vehicles or representing the conditions under which they are available for sale or lease with an option of purchase to prospective buyers or lessors. These services may include advertising, displaying vehicles, or soliciting bids on vehicles available for sale or lease with an option of purchase.

(b) The services in par. (a) do not include providing general advice or information to prospective buyers, sellers, lessors, or lessees on issues concerning the buying, selling, or leasing of motor vehicles, provided the information does not include representations of specific vehicles available for sale or lease with an option of purchase.

(c) The services in par. (a) do not include a financial institution offering, negotiating, or consummating a motor vehicle loan.

(12) "Titled owner" means the person named as the owner on the face of the most recent certificate of title issued for the vehicle. The term does not include a person named in a reassignment of the title.

(13) "Used motor vehicle" has the same meaning as in s. Trans 137.03 (9).

(14) "Wholesaler" or "wholesale dealer" means a person, other than a licensed motor vehicle dealer or licensed motor vehicle auction dealer, who does any one of the following:

(a) Sells more than 5 used motor vehicles in any 12 month period to motor vehicle dealers, other wholesalers, motor vehicle auction dealers or salvage dealers;

(b) Purchases used motor vehicles at a motor vehicle auction dealer; or,

(c) Purchases used motor vehicles on behalf of motor vehicle dealers, unless the person buying the vehicles satisfies both the following conditions:

1. The person is employed by and receives compensation from one and only one dealer for services related to the sale or purchase of motor vehicles; and

2. The person conducts all financial transactions involving the sale or purchase of motor vehicles in the name of the employing dealer, under the dealer's supervision, and using the dealer's funds and financial accounts.

History: Cr. Register, July, 1981, No. 307, eff. 8−1−81; cr. (intro.), (1), (2), (4) to (6) and (8) to (14), renum. (1) and (2) to be (3) and (7), Register, June, 1991, No. 426, eff. 7−1−91.

Trans 138.025 Motor vehicle dealer license required; exceptions. (1) DEALERS. Except as provided in sub. (2), any person engaging wholly or partly in the business of selling motor vehicles or exchanging, buying, leasing, providing services aiding the sale of motor vehicles, offering or attempting to negotiate a sale or exchange of an interest in motor vehicles, whether or not such vehicles are owned by such person, without first obtaining and maintaining a valid license under ss. 218.0101 to 218.0163, Stats., violates s. 218.0114, Stats.

Note: Examples of motor vehicle dealers include businesses that sell vehicles from their own inventories, persons who sell vehicles on consignment, and "buying clubs" or others who negotiate terms of sale in behalf of consumers or dealers, such as a membership organization which arranges special discounts for its members with dealers. Arranging such discounts constitutes "offering or attempting to negotiate a sale or exchange of an interest in motor vehicles for compensation,"which is part of the statutory definition of a dealer. "Compensation"includes increasing the value of membership or affiliation with a club or association.

(2) EXEMPTIONS. The following persons are not required to hold a motor vehicle dealer license and, except as provided in this subsection, are exempt from the provisions of this chapter and ss. 218.0101 to 218.0163, Stats.

(a) *Express statutory exclusions.* Any person described in s. 218.0101 (23) (b), Stats.

(b) *Limited private sales.* Any person who sells or who offers or attempts to negotiate a sale of 5 or fewer used motor vehicles during a 12 month period, provided that the vehicles are privately titled to that person.

(c) *Auxiliary business services.* A person who provides services to prospective sellers or buyers which aid the sale of motor vehicles if and only if the service provider's compensation is determined prior to, and is completely independent of, the sale of any motor vehicle.

Note: This exemption is primarily intended to allow advertising companies, newspapers, magazine publishers, property lessors, and others to provide their usual business services to dealers without having to be licensed as dealers themselves, even though their services or activities may encourage or facilitate vehicle sales.

(d) *Retail disposal of vehicles by business fleet owners.* A corporation, firm, association, partnership, or other business that sells its own used motor vehicles to retail buyers, provided that all of the vehicles are privately titled to the seller; and that all the vehicle sales are incidental.

Note: This exemption allows fleet owners to sell off their surplus property to retail customers without getting a dealer license. It does not apply, however, to companies which lease, rent or manufacture motor vehicles since their vehicles are not privately titled.

(e) *Wholesale disposal of vehicles by business fleet owner.* A corporation, firm, association, partnership, or other business that sells its own used motor vehicles, provided that all sales are made to licensed motor vehicle, wholesale, motor vehicle auction, or salvage dealers; and that all vehicle sales are incidental.

(f) *Exempt auction services.* A retail auctioneer in compliance with s. Trans 138.028.

(g) *Licensed wholesalers.* A wholesaler in compliance with s. Trans 138.027.

(h) *Licensed salespersons.* A motor vehicle salesperson licensed in accordance with s. 218.0114 (1), Stats., and acting within the scope of his or her employment with a licensed dealer.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; **corrections in (1), (2) (intro.), (a), and (h) made under s. 13.93 (2m) (b) 7., Stats**.

Trans 138.027 Wholesaler. (1) No person may act as a wholesaler in this state without a valid wholesaler license under ss. 218.0101 to 218.0163, Stats.

(2) A wholesaler may not sell motor vehicles to retail buyers.

(3) A wholesaler may not consign motor vehicles to a motor vehicle dealer.

(4) A wholesaler shall comply with ss. Trans 138.03 (5), 138.04 (1) (b) and (2), 138.06, 138.07 and this section, but is otherwise exempt from this chapter.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91; **correction in (1) made under s. 13.93 (2m) (b) 7., Stats**.

Trans 138.028 Retail auctioneers; limited exemption. Notwithstanding s. Trans 138.025, a retail auctioneer selling motor vehicles may conduct business without a motor vehicle dealer license, provided the retail auctioneer meets all of the following requirements:

(1) None of the vehicles offered at auction are owned by a motor vehicle dealer, wholesaler, manufacturer, or other licensee under ch. 218, Stats.

(2) Each auction is clearly distinct in place and date and meets at least one of the following conditions:

(a) It includes only those vehicles owned by a single person, where person means an individual, household, association, firm, or corporation including its subsidiaries and divisions; or,

(b) The auction includes no more than 3 motor vehicles.

Note: For example, an auctioneer may not need a dealer license when the auction only involves vehicles owned by one individual, corporation, or other "person". If the auction includes vehicles owned by 2 or more persons, the auctioneer or auction company usually needs a dealer license. The only exception occurs in very small consignment auctions, where no more than 3 vehicles are offered for sale at a single auction.

(3) The auction is not conducted on the permanent business premises of any motor vehicle dealer, wholesaler, wholesale auction dealer, or other person licensed under ch. 218, Stats.

(4) The auctioneer does not hold regular or frequent auctions under the conditions described in this section at a single location. Frequent auctions at the same location include, though are not limited to, situations in which 3 or more vehicle auctions are conducted in the same place within 12 months.

History: Cr. Register, June, 1991, No. 426, eff. 7−1−91.

Trans 138.03 Dealer business facilities. (1) Business facilities required to be provided and maintained by motor vehicle dealers are:

(a) A permanent building wherein there are facilities for:

1. A business office to maintain the books, records, and files necessary to conduct business.

2. A minimum 12 x 20 foot area accessible for automobile display, pre−sale preparation, or repair purposes. Motorcycle dealers

who do not also sell automobiles shall provide an area of sufficient size to display, prepare, or repair at least 3 units. Truck dealers who do not sell automobiles are exempt from the requirements of this subdivision.

3. A repair shop, or a service agreement with a nearby repair shop, where there are repair tools, repair equipment and personnel to service such vehicles. Any service agreement shall be on the form provided by the department.

(b) A vehicle display lot adjacent to the business office, unless all vehicles offered for sale are displayed within the business building.

(c) The business premises which provide all required facilities shall comply with local zoning, building code and permit requirements.

(2) A residence, tent, or temporary stand is not a sufficiently permanent business facility within the meaning of this section. As used in this section and s. 218.0116 (3), Stats., "residence"means the domicile of a person who is an employe or owner of the dealership licensed, or applying for a license, under ss. 218.0101 to 218.0163, Stats. "Residence" does not include a building either formerly used as a residence or used as a residence by persons having no interest in an existing dealership. A motor vehicle dealer licensed by the department prior to July 1, 1991 despite having the required business office or indoor display or repair area in his or her residence may continue to use those facilities so long as ownership of the business remains unchanged and his or her dealer license is renewed continuously on or after July 1, 1991.

(3) More than one motor vehicle dealer, wholesaler or other business may share a single permanent building.

(a) If a licensed motor vehicle dealer shares facilities with another motor vehicle dealer, wholesaler, or other business, each licensee shall:

1. Display a dealership sign which satisfies s. Trans 138.06.

2. Separate its own vehicle display lot from areas used by other licensees; and

3. With each license application, provide a copy of the lease agreement between the owner of the property and the dealer along with a diagram of the facilities for the designated location. If the dealer sublets the facilities from a lessee, that dealer shall provide a copy of the sublease and a copy of the lease authorizing the lessee to execute subleases.

(b) Each licensee sharing a permanent building with another licensee shall satisfy all the requirements of par. (a) within 1 year after July 1, 1991 or the license for each noncomplying dealership may be denied or suspended until the dealership facilities comply with this section.

(c) If the dealerships which share facilities also share majority ownership, they are exempt from the requirements of par. (a).

(4) The business premises which provide all required facilities shall comply with local zoning, building code and permit requirements.

(5) Motor vehicle wholesalers of used vehicles are subject to subs. (1) (a) 1., (b), and (3) and (4).

History: Cr. Register, May, 1966, No. 125, eff. 6−1−66; am. (1), r. and recr. (2), r. (3), Register, April, 1977, No. 256, eff. 5−1−77; renum. from MVD 13.01 and r. and recr. Register, July, 1981, No. 307, eff. 8−1−81; emerg. am. (1) (b), eff. 1−13−83; am. (1) (b), r. (2), renum. (3) to be (2), Register, October, 1984, No. 346, eff. 11−1−84; am. (1) (a) 1. and 2., cr. (2) and (3), renum. (1) (c) to be (4), renum. (2) to be (5) and am., Register, June, 1991, No 426, eff. 7−1−91; **corrections in (2) made under s. 13.93 (2m) (b) 7., Stats**.

Trans 138.04 Records kept. The minimum of books and records required to be kept and maintained at the licensed business premises by motor vehicle dealers and used motor vehicle wholesalers under s. 218.0116 (3) and (5), Stats., shall include:

(1) Motor vehicle dealers:

(a) As evidence of ownership, title for each used vehicle owned and offered for sale and MSO for each new vehicle owned and offered for sale. 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

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 reassignment 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 disclosure 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; **correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats**.

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.

(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

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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.

(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) REVOCATION. (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.