

Chapter Trans 141

MANUFACTURED HOME RETAILER TRADE PRACTICES, FACILITIES AND RECORDS

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Trans 141.01 Purpose and scope. (1) **STATUTORY AUTHORITY.** As authorized by ss. 110.06(1), 218.12(6) and 227.11, Stats., the purpose of this chapter is to establish the department's administrative interpretation of ss. 218.10(3), 218.11(3), 218.11(6)(e), (h), (i), (k) and (n), 218.11(7)(c), 218.12(5) and 342.16(2), Stats., relating to manufactured home retailer trade practices, facilities and records.

(2) **APPLICABILITY.** This chapter applies to any person applying for or holding a Wisconsin manufactured home retailer or salesperson license.

Note: A form used in administering this rule is the manufactured home retailer service agreement.

History: Cr. 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.

Trans 141.02 Definitions. In this chapter:

(1) "Available for delivery" means a home has been constructed and is ready to be delivered to the purchaser from the home sales location or the point of manufacture.

(2) "Cash price" means retailer asking price including retailer installed options and accessories and additional retailer-mark-up, profit and transportation charges, minus the dollar value of cash discounts.

(3) "Damage" means defects caused by reasons other than normal wear through home age and usage.

(4) "Licensee" means any manufactured home retailer, or salesperson, or any person who is both a manufactured home retailer and a salesperson.

(5) "Manufactured home" and "home" means a mobile home which is transportable in one or more sections, which in the traveling mode, is more than 8 feet 6 inches in width or more than 45 feet in length, or when erected on site, is more than 340 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the manufactured home. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. For purposes of this chapter the measurement of length shall be determined in accordance with s. 348.07(3), Stats.

(6) "Mobile home" has the meaning set forth in s. 340.01(29), Stats.

Note: The term mobile home includes both a manufactured home as defined in this chapter and a recreational vehicle as defined in s. Trans 142.02 (6).

(7) "Manufactured home retailer" and "retailer" means:

(a) A mobile home dealer as set forth in s. 218.10 (3), Stats, but does not include:

1. A recreational vehicle dealer as defined in s. Trans 142.02 (7).

2. Governmental units and agents performing their official duties.

3. Advertising media and agents performing their assigned duties.

4. A licensed realtor involved in a manufactured home sale solely as a result of a real estate transaction including the manufactured home and the real estate site upon which the manufactured home is located.

(b) A person, not excluded by par. (a), who sells 2 or more new or used manufactured homes in any one calendar year.

(8) "New manufactured home" means any untitled or titled manufactured home which has not been previously occupied, used or sold for private or business use.

(9) "Retail purchaser" means any purchaser not licensed as a manufactured home retailer or salesperson.

(10) "Service agreement" means any repair agreement sold by a licensee.

(11) "Used manufactured home" means any untitled or titled manufactured home which has been occupied, used or sold for private or business use.

(12) "Site" means any plot of land which is owned or rented, and used or intended to be used for the accommodation of a manufactured home for residential purposes.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

Trans 141.03 Advertising and sales representations.

(1) **TRUTHFUL.** The use of false, deceptive or misleading advertising or representations by any licensee to induce the purchase of a manufactured home constitutes an unfair practice and is prohibited.

(2) **FACTUAL.** Any licensee, making a statement of fact to the public in an advertisement, written statement or representation concerning the manufactured home offered for sale, the services provided or other aspects of the business operation, shall upon request of the department, furnish evidence of the validity and accuracy of the statement of fact at the time it was made.

(3) **DISCLOSURES REQUIRED WHEN ADVERTISING PRICE.** When the price of a manufactured home is advertised by a licensee, the advertised price shall include all charges that shall be paid by the purchaser to acquire ownership of the advertised home with the exception of sales tax and title and registration fees.

(4) **NAME.** Advertisements for manufactured home sales shall include the licensed business name.

(5) **RELOCATIONS.** Whenever a licensee advertises a manufactured home on a rental lot site which may have to be moved as a condition of the sale, that fact shall be stated in the advertisement.

(6) **NEW OR USED.** When advertising a manufactured home, a licensee shall state whether the home is new or used. If all of the homes in an advertisement are new or used, one reference designating that they are new or used is sufficient.

(7) **EXPIRATION TERMS OF SALES OR PROMOTIONS.** Whenever a sale or promotion offering gifts, merchandise, equipment, accessories, service, discounts, price reductions, or cash is advertised, the advertisement shall also specifically disclose the expiration terms or date of the sale or promotion.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

Trans 141.04 Purchase contract. (1) USAGE (a) All licensees shall furnish retail purchasers with a copy of a document entitled "Manufactured Home Purchase Contract" that clearly states that the prospective retail purchaser is making an offer to purchase a manufactured home. An exact copy of the purchase contract shall be provided to the purchaser at the time the purchaser signs the offer and again after the offer is accepted by the retailer. Any changes to the purchase contract after signing by the purchaser or subsequent to acceptance by the retailer shall be initialed by all parties on all copies.

(b) A manufactured home purchase contract shall be executed whenever the licensee accepts a down payment, deposit or title for a trade-in unit from a prospective retail purchaser.

(2) CONTRACT FACE REQUIREMENTS. A purchase contract shall, on its face:

(a) Clearly identify the names and addresses of the retailer and purchaser.

(b) Describe the manufactured home purchased by year, make, model and identification number, and any trade-in unit by year, make, and model, and specify whether the purchased home is new or used.

(c) State the date and time each signature is affixed.

(d) Include the salesperson's name and license number in an area separate from the signatures of the purchaser and retailer or authorized representative.

(e) Specify an anticipated delivery date and state further in bold faced type next to the anticipated delivery date: **IF THE MANUFACTURED HOME ORDERED BY THE PURCHASER IS NOT AVAILABLE FOR DELIVERY BY THE RETAILER WITHIN 15 CALENDAR DAYS AFTER THE ANTICIPATED DELIVERY DATE, EXCEPT WHEN TRIP PERMITS TO TRANSPORT THE HOME CANNOT BE ISSUED, THE PURCHASER MAY CANCEL THIS ORDER. THE PURCHASER SHALL RECEIVE A FULL REFUND OF ANY DOWN PAYMENT AND RETURN OF THE TRADE-IN, OR TITLE FOR THE TRADE-IN, OR BOTH BY THE CLOSE OF THE RETAILER'S NEXT BUSINESS DAY. IF THE TRADE-IN HAS BEEN SOLD, THE PURCHASER SHALL RECEIVE THE TRADE-IN ALLOWANCE SPECIFIED IN THE OFFER.**

Note: Department trip permit forms which apply to this paragraph are single (ET-566) or annual (ET-565) trip permits to transfer oversize mobile homes and modular building sections.

(f) Clearly state the price due on closing and the known components of that price, including but not limited to, the price of the manufactured home, the price and description of any additional accessories, options, or equipment, sales tax, license and title fees, down-payment, and trade-in allowance. Rebates shall be stated separately by dollar amount and assignment.

(g) Clearly state whether or not the contract is subject to the purchaser obtaining acceptable financing through the retailer or at the creditor of the purchaser's choice, and how long the purchaser has to obtain financing. If the purchaser is unable to obtain acceptable financing, the purchaser may cancel the contract without penalty and shall, by the close of the retailer's next business day, receive a full refund of any down-payment, and return of the trade-in, or title for the trade-in, or both. The licensee may delay returning a deposited down-payment beyond the close of the retailer's next business day only when the purchaser's personal check or other negotiable instrument has not cleared the payor's bank. If the check or other negotiable instrument clears, the licensee shall return, in person or by mail, the down-payment to the purchaser within 24 hours of receiving evidence of clearance. If the trade-in has been sold, the purchaser shall receive the trade-in allowance specified in the offer.

(h) Specify all other negotiated conditions of the sale not stated elsewhere on the contract.

(3) TERMINATION OF THE OFFER TO PURCHASE. (a) Unless otherwise specified in the contract, the offer to purchase is automatical-

ly voided if the licensee fails to accept or reject the offer by the close of the retailer's next business day.

(b) The licensee shall not sell the manufactured home to any other party until either the offer is rejected by the licensee, or the offer is voided in accordance with this section, or the purchaser cancels the contract in accordance with sub. (4).

(c) Any down payment, deposit, or title shall be returned to the prospective retail purchaser within 2 working hours from the time the offer to purchase is rejected by the licensee. If the prospective purchaser is not present or available during the 2 hour period, those items shall be returned in person or mailed by the close of the retailer's next business day.

(4) PENALTIES FOR CANCELLATION BY PURCHASER. (a) The purchase contract shall clearly state that cancellation of a manufactured home contract by a purchaser within 24 hours after acceptance by the retailer may subject the purchaser to a penalty of up to 1% of the cash price of the manufactured home and that cancellation of the contract after the 24 hour period may subject the purchaser to a penalty not to exceed the penalty amount specified on the contract. Modification of the purchase contract shall not extend the 24 hour period. Documented proof of notification of cancellation is required regardless of the method of notification.

(b) The title and any down-payment or deposit which is not retained by the retailer as a penalty in accordance with par. (a) shall be returned to the purchaser by the close of the retailer's next business day following receipt of the purchaser's notice of cancellation.

(5) PRICE CHANGES. Any increase in price to a retail purchaser after the retailer has accepted an offer is an unfair practice and prohibited except when the price increase is due to:

(a) The addition of new equipment as required by state or federal law, or

(b) State or federal tax rate changes, or

(c) The reappraisal of a trade-in unit which has suffered damage as defined in this chapter or is missing parts or accessories which were part of the trade-in unit at the time the purchase contract was executed. Reappraisal by the licensee shall be limited to an amount equal to the retail repair costs of damages incurred, or to the value of the parts or accessories removed.

(6) WARRANTIES. (a) Reference to any warranties, service agreements, or warranty disclaimers which apply to the manufactured home shall be made on the purchase contract.

(b) If a manufactured home is sold with a warranty, the warranty shall be in writing and shall be provided to the purchaser at the time the home is delivered.

(c) If a manufactured home is sold on an as is - no warranty basis, the purchase contract shall include the following statement in bold face type: "AS IS—NO WARRANTY"—"EXCEPT FOR ANY EXPRESSED OR IMPLIED WARRANTY BY THE MANUFACTURER OR OTHER THIRD PARTY WHICH EXISTS ON THIS MANUFACTURED HOME, THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THIS HOME IS WITH THE PURCHASER, AND SHOULD THE HOME PROVE DEFECTIVE FOLLOWING THE PURCHASE, THE PURCHASER SHALL ASSUME THE ENTIRE COST OF ALL SERVICING AND REPAIR."

(d) A warrantor shall service or repair a manufactured home in accordance with the terms and conditions of the warranty or service agreement.

(7) NAME OF PRIOR OWNER. The purchase contract shall include the name and address of the current titled owner if the manufactured home is consigned to or listed by the licensee, or the name and address of the previous owner if the manufactured home is owned and offered for sale by the licensee.

(8) ON SITE SALES. If the manufactured home is displayed for sale on a rental lot site or if a licensee represents that a manufac-

tured home may occupy a site in a specified home park the dealer shall:

(a) Clearly state on the purchase contract whether or not the manufactured home may have to be moved from the site.

(b) Clearly state on the purchase contract that the contract is voidable by the purchaser if the purchaser or home is not accepted in the home park.

(c) If the home may remain on site, inform the prospective purchaser in writing prior to execution of the contract that a copy of the current home park lease and rules may be obtained from the current home owner or park operator.

(9) **SERVICE FEES.** A licensee shall not assess a purchaser an additional service fee or charge for completing any sales-related home inspection or forms which are required by law or rule.

(10) **WAIVER.** The use of a manufactured home purchase contract which requires the purchaser to waive any claims the purchaser may have for breach of contract by the licensee is an unfair practice and prohibited.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

Trans 141.05 Selling agreements. (1) USAGE AND CONTENTS. Whenever a manufactured home retailer lists or offers to sell a home on consignment a written selling agreement shall be completed and shall include:

(a) The date of the selling agreement.

(b) The name of the home owner and retailer, and any other parties to the agreement.

(c) The description of the home including year, make, and identification number.

(d) The terms of the agreement including the duration of the agreement, the selling price, the amount of the sales commission or fee, and when the sales commission or fee is to be paid. The sales commission or fee shall not be charged until the sale of the home.

(e) A statement by the owner indicating that either the home is clear of any liens, or the amount of any outstanding lien balance.

(f) Signatures of the home owner and selling retailer.

(2) **ON SITE SALES ON RENTAL SITES.** Manufactured home selling agreements for units offered for sale on-site, shall state whether the home may remain on the same rental lot site following the sale. If it may remain, the park operator or owner of the land shall provide the licensee with a copy of the current lease agreement and written rules.

(3) **NET SALES PROHIBITED.** Licensees shall not obtain, negotiate or attempt to negotiate any manufactured home selling agreement providing for a stipulated net price to the owner with the excess over the stipulated net price to be received by the licensee as commission.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84.

Trans 141.06 Disclosure of the condition of the manufactured home. (1) MODEL YEAR DESIGNATION. Changing the model year of a manufactured home is an unfair practice and prohibited. If no model year is designated, the year of manufacture applies.

(2) **NEW MANUFACTURED HOME DISCLOSURE.** The licensee shall on the face of a new manufactured home purchase contract, disclose all retailer installed options or accessories and whether or not the options or accessories are warranted.

(3) **USED MANUFACTURED HOME GENERAL CONDITION DISCLOSURE.** (a) Licensees shall inform prospective retail purchasers of used manufactured homes in writing before execution of the purchase contract in the manner and on the form prescribed by the department, of all significant structural or mechanical defects and damage. If the licensee is unable to determine whether specific defects or damage exist, that fact shall also be noted on the disclosure form. Disclosure of information shall include that which the licensee discovers as a result of a careful visual inspection, which

shall consist of but is not limited to a walk-around and interior inspection, under home inspection, roof inspection and an inspection of the appliances. Licensees are not required to dismantle any part of the manufactured home during the inspection process.

(b) Unless otherwise agreed to in the purchase contract, the inspection disclosures shall neither create any warranties, expressed or implied, or affect warranty coverage provided for in the purchase contract.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; reprinted to correct error in (3) (a), Register, December, 1984, No. 348.

Trans 141.07 Facilities and records. (1) BUSINESS FACILITIES. Business facilities required to be provided and maintained by manufactured home retailers are as follows:

(a) A building with a business office to maintain the books, records, and files necessary to conduct business. The required business office may be established within a residence if it is accessible to an outside entrance and is used primarily for conducting the manufactured home business.

(b) If a display lot is provided, it shall be within the same block or directly across the street from the main business location.

(c) A repair shop, or a service contract with a nearby repair shop, where there are repair tools, repair equipment and personnel to perform the services provided for in a warranty applicable to a home sold by the retailer. Any service contract shall be on the form provided by the department.

(2) **ZONING.** The business premises shall comply with the local zoning, building code and permit requirements.

(3) **SIGN.** Manufactured home retailers who carry and display inventory shall provide an exterior business sign in compliance with s. 100.18 (5), Stats.

(4) **TEMPORARY SALES LOCATIONS.** Manufactured home retailers shall be permitted to display and sell homes at a temporary site other than the licensed place of business, providing that:

(a) Each retailer furnishes the department with written notification of the sale and location at least 10 days in advance; and

(b) The duration of each sale does not exceed 10 days; and

(c) The retailer does not participate in more than 6 sales during each licensing (calendar) year; and

(d) Each participating retailer furnishes each consumer a written notice of the 3-day "cooling off" rights pursuant to s. 423.203, Stats.

(5) **RECORDS KEPT.** The minimum of books and records required to be kept and maintained at the licensed business premises by a manufactured home retailer under ss. 218.11(3) and (7) (c) and 342.16 (2), Stats., shall include:

(a) The title for each used home owned and offered for sale and the manufacturer's statement of origin for each new home owned and offered for sale. The retailer shall also have either a factory invoice, a completed retailer reassignment form, or a purchase contract evidencing trade-in or purchase when a manufacturer or lending institution is holding the title or manufacturer's statement of origin of the manufactured home.

(b) A written selling agreement between the owner and retailer for each manufactured home owned by an individual and offered for sale or listed by the retailer.

(c) The original or a copy of all manufactured home purchase contracts, purchase orders and invoices. The records shall also include a copy of MV1 Wisconsin title and registration application forms as additional evidence of the sale as well as information regarding collection of sales tax and Wisconsin title and registration fees.

(d) A record of every manufactured home bought, sold, exchanged, consigned, or listed which shall be kept in a permanently bound book containing consecutively pre-numbered pages with horizontal line ruling. Sales information shall be entered on the same line at the time of the sale. All entries shall be consecutively entered in ink and be legible. Blank horizontal lines shall not be

allowed. The information should be maintained in the following format:

Date Acquired	Acquired From Name & Address	New or Used	Year-Make-ID	Date Sold or Disposed of	Disposed of or sold to Name & Address
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(e) The record book described in par. (d) shall be maintained for 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 copies of factory invoices, dealer reassignment forms, selling agreements, purchase contracts, MV1 and MV11 Wisconsin title and registration applications, regular and conforming power of attorney forms, and for motor vehicles taken in trade, prior owner odometer disclosure statements and dealer's

subsequent odometer disclosure statements. The records shall be kept in the place of business during business hours and shall be open to inspection and copying by the department during reasonable business hours.

Note: Financial responsibility requirements for retailers will be specified in another rule promulgated by the department.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; am. (5) (e), Register, January, 1996, No. 481, eff. 2-1-96.