

**GUIDE
FOR
LICENSED VEHICLE DEALERS
AND
LESSOR-RETAILERS**



LICENSING OPERATIONS SECTION

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I. Occupational Licenses

- *Requirements for Renewing a License*

The Department provides for the staggered renewal of all dealer and lessor-retailer licenses and special plates. A renewal application is mailed to all licensed dealers and lessor-retailers 45 days prior to the expiration date of the licenses. Renewal of the license must be accomplished on or prior to the license expiration date to avoid penalties. To avoid license or sticker delivery delays, please send the renewal application with appropriate fees directly to: Department of Motor Vehicles, Occupational Licensing Unit, P.O. Box 932342, Sacramento, CA 94232-3420 at least two weeks prior to the expiration date shown on the renewal application.

- *Penalty Renewal*

Renewal fees and penalty fees can only be accepted for a period of 30 days after the expiration date of the license. Renewal cannot be accepted after 30 days from the expiration date of the license (11717[d], CVC).

- *Continuing Education Program*

License renewal is done annually; however, after initial licensing, used dealers and dealer-wholesale only must attend an approved continuing educational program of not less than four (4) hours every two years in order to renew or maintain their license. The Department will notify all effected dealers with their renewal when proof of continuing education is required (11704.5[c] CVC).

- *Requirements for Relinquishment of a License*

When licensed dealers or lessor-retailers cease doing business, or a bond cancelled by the Surety Company is not reinstated by the cancellation date, the licensee shall immediately surrender the business license, special plates, registration cards and all report of sale books to the local DMV Inspector.

- *Requirements for Modification of a License*

Whenever a licensed dealer or lessor-retailer changes a location, adds a branch office, changes the firm name, or makes a change in the corporate structure, the licensee shall immediately notify and submit the appropriate forms and fees to the local DMV Inspector.

- *Ownership Changes*

Whenever a licensed dealer or lessor-retailer changes the ownership of a firm by adding a partner, deleting a partner, or adding a partner to an individual ownership, or a licensed corporation merges into another corporation, an ownership change has occurred requiring the surrender of all supplies to the Department, and the submission of an original application for license. An original application requires the submission of original application fees and a new \$50,000 bond. The bond under the old ownership cannot be used for the new ownership.

- *Licensing Requirements for a Salesperson*

Every person who acts as a vehicle salesperson for a licensed dealer must first procure a license or temporary permit issued by the Department of Motor Vehicles. The Department provides forms used in filing such applications. At the time of the original or renewal application, the following fees shall be paid to the Department:

- A. A nonrefundable application fee of fifty one dollars (\$51) for the original issuance of a license.
- B. Renewal fee (once every three years) of \$51.00.

- *Use of "Bird Dogs" (Illegal Salesperson Activity)*

It is unlawful for any licensed dealer to employ any person as a salesperson, who has not been licensed by the Department as outlined in Section 11800, California Vehicle Code (CVC). This includes the payment of "referral" or "finders" fee to any person who directs a potential customer to a dealer.

It is unlawful for any licensed salesperson to perform the sales activities outlined in Vehicle Code Section 675 at any location other than the employing dealer's licensed location.

- *Notice to Public: Inspection of Vehicle*

Every dealer who displays or offers one or more used vehicles for sale at retail shall post a notice not less than 8 inches high and 10 inches wide, in a place conspicuous to the public, which states the following:

“The prospective purchaser of a vehicle may, at his or her own expense and with the approval of the dealer, have the vehicle inspected by an independent third party either on or off these premises.”

- *Notice to Public: No Cancellation Period*

Every dealer shall conspicuously display a notice, not less than 8 inches high and 10 inches wide, in each sales office and sales cubicle of a dealer's established place of business where written terms of specific sale or lease transactions are discussed with prospective purchasers or lessees, and in each room of a dealer's established place of business where sale and lease contracts are regularly executed, which states the following:

“NO COOLING-OFF PERIOD”

California law does not provide for a “cooling-off” or other cancellation period for vehicle lease or purchase contracts. Therefore, you cannot later cancel such a contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign a motor vehicle purchase or lease contract, it may only be canceled with the agreement of the seller or lessor or for legal cause, such as fraud.

- *Use of Special Plates*

Special plates issued to dealers may be used for any purpose, including pleasure, provided the vehicle is in the dealer's inventory for sale and is used only by the firm owners of the dealership or is leased to vehicle salespersons. Special plates may not be used on work or service vehicles (see use of special plates memo issued to all dealers dated December 23, 1983). Special plates are not provided to lessor-retailers.

- *Reporting Unlicensed Dealers*

Whenever a licensed dealer has grounds to suspect that a person or persons are engaging in the buying and selling of vehicles as outlined in Section 285, CVC, without having first obtained a license from the Department, the dealer or their authorized representative should file a written complaint with the local Department of Motor Vehicles Investigations Branch.

- *Table of Licensing Fees*

The fee for a license issued to a dealer and/or lessor-retailer shall be:

- A. A nonrefundable original application fee of one-hundred fifty one dollars (\$151).*
 - B. Alteration caused by a firm name change, address change or the addition of a branch location—seventy dollars (\$70).
 - C. Annual renewal of each license held—one hundred one dollars (\$101).
 - D. Special Plate—forty-one dollars (\$41). Lessor-retailers are not entitled to special plates. Motorcycle dealers special plate fee is forty-three (\$43). \$41.00/\$43.00 per dealer plate fee varies per county. Contact your local Inspector for total plate fee due your location.
- *Please note that new auto/commercial, motorcycle, all-terrain vehicle, recreational trailer, or motorhome applications will additionally be assessed the New Motor Vehicle Board fee of two-hundred twenty-five dollars (\$225) for all original and renewal applications for each location.
- E. \$1.00 license eligibility fee.

- *New Motor Vehicle Board Function*

The New Motor Vehicle Board (NMVB) accepts and arbitrates protests submitted by dealers on franchise terminations, territory infringements, etc. The NMVB also hears and considers appeals presented by dealers from a decision rendered by the Department (refer to Sections 507, 3052-3058, 3060-3063, CVC). The Board consists of nine members. Four of the appointed members are new motor vehicle dealers, engaged in business for a period of not less than five years preceding their appointment. The remaining five appointive members are public members not affiliated with any licensed dealer.

II. Permits/Licenses (Copies required)

- *Board of Equalization Resale-Permit*

All licensees are required to file an application for a Seller's Permit. Applications can be made through local Board of Equalization offices.

- *City and/or County Business License*

Licensees are required to obtain a city or county business license by the city or county licensing section in the area where the licensee is doing business.

- *Fictitious Name Statement*

Any business that operates under a name not the actual name of the owner is required to obtain a Fictitious Name Statement from the city or county in the area where your business is located. If the responsible agency determines this is not required, a letter supporting such from that agency is needed.

- *Bureau of Automotive Repair*

Dealers who will be providing automobile servicing and repair are required to file an application with their local Bureau of Automotive Repair office. There is a required fee application of \$100, which is to be renewed annually. The application process takes six to eight weeks.

III. Assistance and Supplies

- *Registration Questions*

Licensees seeking assistance with registration problems should contact their local Department of Motor Vehicles Field Office, Registration Section.

- *Licensing/Regulation Questions*

Licensees seeking assistance with occupational licensing regulation problems should contact their local DMV Inspector.

- *Ordering Supplies—Procedure*

Whenever there is a need for the licensee to reorder supplies, such as Report of Sale Books, and Wholesale Report of Sale Books, the licensee should use the appropriate postcard. Supplies may also be ordered by submitting a written request on letterhead to the Occupational Licensing Unit, P. O. Box 932342, Sacramento, CA 94232-3420. Allow at least six weeks for delivery.

In the event of an emergency, a token supply of books are available at each of the Inspector offices. The licensee shall submit a request in writing on letterhead to the local office, naming the representative authorized to pick up the order.

- *Report of Sale and/or Wholesale Report of Sale Usage*

When a vehicle is sold, dealers, lessor-retailers and wholesalers shall use numbered report-of-sales and/or wholesale report-of-sales forms issued by the Department (Section 4456, CVC). A "sale" shall be deemed completed and consummated when the purchaser of the vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement and taken physical possession or delivery of that vehicle (Section 5901[d], CVC).

IV. Records

- *Timely Reporting of Sales*

When selling a vehicle, dealers and lessor-retailers shall, no later than the end of the fifth calendar day, not counting the date of sale, give written notice of the transfer to the Department of Motor Vehicles headquarters in Sacramento by sending the stub of the carbon copy (notice of sale). Applications for transfer of new and used vehicles shall be submitted within 20 days from the date of sale (Sections 4456, 5901, CVC). All fees and penalties connected with registering or transferring registration of a new or used vehicle shall be submitted within 20 days from the date of sale (Sections 4456, 5901, CVC). All fees and penalties connected with registering or transferring registration of a new or used vehicle shall be paid to the Department within 20 days from the date of sale.

A dealer or lessor-retailer who violates any subdivision of Section 4456 CVC shall pay Administrative Service Fees (ASF) on the following schedule:

- 4456(a)(6)—Failure to submit a notice of sale to the Department within 5 days of the date of sale—\$5.00.
- 4456(a)(2)—Failure to submit fees due and the application to the Department within 20 days of the date of sale—\$5.00 (new and used vehicle sales).
- 4456(a)(4)—Failure to clear the vehicle application within 40 days from the date of sale or 20 days from the date the Department first returned the application, whichever is later—\$25.00.

A 20-day extension applies only to those applications that are originally submitted to the Department within 20 days from the date of sale. Pursuant to Section 4456(a)(4), all other applications must be cleared by the 40th day from the date of sale in order to avoid a \$25.00 Administrative Service Fee.

- *Use of Report of Sale and/or Wholesale Report of Sale Forms*

Report of Sale forms will be used in numerical order. The report form has four parts. All parts of each Report of Sale have the same number. The top part of the original accompanies the application for registration. The stub of the original is placed on the lower right-hand corner of the windshield. The stub of the carbon copy is to be sent to DMV headquarters no later than the fifth day following the date of sale. The top part of the carbon copy is to remain in the book.

Wholesale Report of Sale forms are used in reporting sales of used vehicles from dealer to dealer or dealer to dismantler. The form has three parts and all parts of the Wholesale Report of Sale have the same number. The original is sent to DMV headquarters, Sacramento, within 5 days after the sale of the vehicle to another licensee. The second copy is the buyer's copy and the third copy is the book copy. This Wholesale Report of Sale form shall be submitted by licensees in lieu of the Notice of Release of Liability form Reg. 138.

When a Report of Sale or Wholesale Report of Sale form must be voided, all parts must be marked "VOID." The licensee must mail all parts, except the book copy, immediately to the Department's headquarters in Sacramento. The licensee should include a full written explanation concerning the transaction and a certification that the vehicle did not leave his possession and print "was not operated" on the operating copy.

- *Retention Periods (State and Federal)*

All business records relating to vehicle transactions shall be retained by the dealership for a period of not less than three years (Section 272.00, Title 13, California Code of Regulations).

The federal government requires that all business records be retained by the dealership for a period of not less than three years nor more than six years.

- *Access by Department Staff and Peace Officers*

The Director, Deputy Director, Chief and Assistant Chiefs, Investigative Services, and Investigators of the Department have the powers of peace officers and may inspect any vehicle, in any new or used dealership, for the purpose of investigating the title and registration of the vehicle, or locating stolen vehicles.

- *Location of Records*

All supplies issued by the Department remain the property of the Department and may be taken up at any time for inspection. All books and records pertinent to the type of business being conducted are to be kept at the established place of business of the licensee and are open to inspection to all peace officers during normal working hours.

V. Principal Laws/Regulations (Definition)

California Vehicle Code

- *False Statements*

It is unlawful to use a false or fictitious name, or to knowingly make any false statements or knowingly conceal any material fact in any document filed with the Department of Motor Vehicles, e.g., false Date of Sale, false Certificate of Non Operation, false Certificate of Compliance (Smog) (Section 20, CVC).

- *Dealer Defined*

“Dealer” is a person not otherwise expressly excluded by Section 286 who:

- (a) For commission, money, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates or attempts to negotiate, a sale or exchange of an interest in a vehicle subject to registration or a motorcycle subject to identification under this code, or induces or attempts to induce any person to buy or exchange an interest in a vehicle and, who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of said vehicle; or
- (b) Is engaged wholly or in part in the business of selling vehicles or buying or taking in trade, vehicles for the purpose of resale, selling, or offering for sale, or consigned to be sold, or otherwise dealing in vehicles, whether or not such vehicles are owned by such person (Section 285, CVC).

- *Place of Business*

A place of business is a place actually occupied either continuously or at regular periods by a dealer where the books and records pertinent to the business being conducted are kept.

The place of business shall have an office and display area situated on the same property where the business is conducted. A dealer who does not offer vehicles for sale at retail, i.e., a dealer who is a wholesaler involved only in the sale of vehicles between licensed dealers, shall have an office, but a display area or sign is not required (Sections 320, CVC; Section 270.00 through 272.00, Title 13, California Code of Regulations).

- *New Motor Vehicle Dealer*

A new motor vehicle dealer is a dealer who acquires for resale, new and unregistered vehicles from manufacturers or distributors of such vehicles (Section 426, CVC).

- *Vehicle Salesperson*

(a) “Vehicle Salesperson” is a person not otherwise expressly excluded by this section, who does one or a combination of the following:

- (1) Is employed as a salesperson by a dealer, as defined in Section 285 CVC, or who, under any form of contract, agreement or arrangement with a dealer for commission, money, profit, or other thing of value, sells, exchanges, buys or offers for sale, negotiates, or attempts to negotiate, a sale, or exchange of an interest in a vehicle required to be registered under this code.
- (2) Induces or attempts to induce any person to buy or exchange an interest in a vehicle required to be registered, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of the vehicle.
- (3) Exercises managerial control over the business of a licensed vehicle dealer or who supervises vehicle salespersons employed by a licensed dealer, whether compensated by salary or commission, including, but not limited to any person who is employed by the dealer as a general manager, assistant general manager, or sales manager, or any employee of a licensed vehicle dealer who negotiates with or induces a customer to enter into a security agreement or purchase agreement or purchase order for the sale of a vehicle on behalf of the licensed vehicle dealer (Section 675, CVC).

- *Delivery of Registration Documents*

A vehicle dealer and/or lessor-retailer shall submit the appropriate documents and fees to the Department for registration for a purchaser who is lawfully entitled to a transfer of registration (Section 5753, CVC).

- *Return of Occupational License*

Whenever the Department cancels, suspends, or revokes the license of a dealer, the licensee shall immediately return the license, special plates, Report of Sale books, and all supplies to the Department (Section 8803, CVC).

- *Lessor-Retailers*

Before a lessor-retailer can make a retail sale of a vehicle, either a dealer license or lessor-retailer license or temporary permit must first be obtained (Sections 11600, 11700, CVC).

- *Dealers, Laws Affecting*

Before a dealer can make a retail or wholesale sale of a vehicle, a dealer's license must first be obtained (Sections 11700,11726, CVC).

- *Salespersons, Laws Affecting*

Before a person can act as a vehicle salesperson, a salesperson's license must first be obtained (Sections 11800, 11824, CVC).

- *Odometers*

It is unlawful for any person to disconnect, turn back, or reset the odometer of any motor vehicle with the intent to alter the number of miles indicated on the odometer (Section 11713(n), CVC; Reference Sections 28050-28053, CVC).

- *Altering or Changing Vehicle Numbers*

No person shall intentionally deface, destroy, or alter the identification number of a vehicle without written authorization from the Department, nor shall any person knowingly buy, sell, offer for sale, receive, or have in their possession, any vehicle from which the identification number has been removed, altered or destroyed (Section 10750, 10751, CVC).

- *False Advertising*

It is unlawful for any licensee to advertise any statements which are untrue or misleading, or to advertise any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated (Section 11713, CVC).

- *Misuse of Dealer's Supplies*

It is unlawful for any licensee to permit the use of their dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles (Section 11713[m], CVC).

VI. Title 13, California Code of Regulations

- *Advertising Defined*

Advertising refers to any statement, representation, act or announcement intentionally communicated to any member of the public by any means whatever, whether orally, in writing or otherwise (Sections 255.00-255.04, Title 13, CCR).

- *Advertising by Licensee*

Any advertising statements, representations, or offers made in connection with sale or attempted sale of any vehicle(s) shall be clearly set forth, and based on facts and shall be subject to these regulations and the Vehicle Code (Sections 260.00-262.09, Title 13, CCR).

VII. Business and Professions (B&P) Code

- *Laws Affecting Repairs*

Every automobile repair dealer shall pay the required fee for each place of business operated in this state and shall register, with the Director of Consumer Affairs on forms prescribed by the director. Every registration shall expire on June 30 of each year unless the automobile repair dealer has paid the renewal fee. The automotive repair dealer registration fee is not more than one hundred dollars (\$100) for each place of business (Sections 9884-9884.19, B&P Code).

- *Smog Devices*

Any person may install a motor vehicle pollution control device; however, no person who has not been licensed by the Bureau of Automotive Repair, shall install such a device for compensation (Sections 9889.15-9889.19, B&P Code).

- *Smog (South Coast Air Basin)*

Air pollution constitutes a significant detriment to public health and welfare. Exhaust emissions from motor vehicles are the major source of photochemical air pollution in the principal population centers of California. Therefore, a demonstration program in Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura counties has been established for the periodic inspection of motor vehicles (Sections 9889.50-9889.61, B&P Code).

- *Smog Devices*

It is unlawful for any person to falsely represent by advertisement the quality of any article so advertised that will be sold, or willfully or negligently to fail to include in the advertisement a statement that any restrictions apply.

It is also unlawful for any person, by means of such false or negligent advertisement, to induce any consumer to enter any place of business seeking to buy any article so advertised and then refuses to sell such person the article at the price advertised (Section 17500.5 B&P Code).

VIII. Civil Code

- *Song-Beverly Consumer Warranty Act*

This chapter expressly limits itself to any new product or part thereof that is used or bought for use primarily for personal use and any waiver by the buyer shall be deemed contrary to public policy and shall be unenforceable and void, except as expressly provided in this chapter (Sections 1790-1795.7, Civil Code).

- *"Lemon" Law*

Requires a manufacturer to replace a new motor vehicle or reimburse the buyer if the vehicle does not conform to the warranty after a reasonable number of attempts have been made to correct a nonconformity.

The new warranty provisions apply only to warranted new motor vehicles purchased on or after January 1, 1983. The new warranty provisions presume that a manufacturer or its agent has made a reasonable number of attempts to conform a new motor vehicle to the applicable express warranties if, within one year from delivery to the buyer or 12,000 miles, whichever occurs first, either:

- (a) The same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity, or
- (b) The vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer (AB 1787 – Ch. 388, Stats of 1982).

- *Standards of Warranty Work*

Any person who engages in the business of installing new or used consumer goods, or provides service or repairs to new or used consumer goods, has a duty to the purchaser to install or perform those services in a good and workmanlike manner (Sections 1796-1796.5, Civil Code).

- *Automobile Sales Finance Act*

This chapter specifically defines conditional sales contract, sellers, buyers, cash price, down payments, finance charges, motor vehicle, simple interest basis, service contracts, financing by dealer or lending institution, refunds, rescissions and civil liabilities (Sections 2981-2984.4, Civil Code).

IX. Health and Safety (H&S) Code

- *Prohibited Transactions*

No person who is a resident of, or operates an established place of business within this state, shall import, deliver or purchase a new vehicle or new vehicle engine, unless such vehicle or vehicle engine meets this state's stringent emissions standards and test procedures (Sections 43150-43156, H&S Code).

- *Manufacturers and Dealers*

Prohibits the sale and registration in this state of any new vehicle which does not have securely affixed on a side window to the rear of the driver, a decal on which the manufacturer shall endorse that the new vehicle clearly meets the emission standards adopted by this state (Sections 43200-43213, H&S Code).

- *Used Motor Vehicles*

Allows the State Air Resources Board to adopt and implement emissions standards for used motor vehicles for the control of emissions. Such standards may be applicable to motor vehicle engines, rather than to motor vehicles (Sections 43600-43659, H&S Code).

X. Consumer Protection

- *DMV's Role*

It is the intent of the Legislature to provide consumer protection in cases where persons have expressed dissatisfaction in their dealing with the vehicle industry. The Department has been delegated to provide this consumer protection to the public. This protection is provided through the licensing, education, and regulation of all dealers.

- *Most Frequent Violations*

A. Warranty

Dealers failing to repair or service vehicles properly while under warranty. The dealer has a duty to the purchaser to perform those services in a good and workmanlike manner (Section 1796, Civil Code).

B. Mechanical Condition

Dealers offering vehicles for sale which are in poor mechanical condition, e.g., brakes, tires, lights, horn, etc., in violation of Section 11713(i), CVC.

C. Failure To Transfer Title

Dealers failing or neglecting to transfer vehicles within the prescribed time period (Section 5753 CVC).

D. Misleading Advertising

Making any statement, whether in writing or orally, which is untrue or misleading (Section 11713[a], CVC).

- *Auto Cap (Automotive Consumer Action Program)*

Is a public service that helps individuals with problems involving a participating new car or truck dealer, or manufacturer. Auto Cap is a group composed of an equal number of new vehicle dealers and consumer members which meets periodically to review unresolved automotive consumer complaints and to recommend fair solutions. Auto Cap's decision is binding on the participating dealership or manufacturer, but not the consumer, who is free to pursue other remedies.

- *Manufacturer Consumer Complaint Boards*

Some manufacturers (Chrysler, Ford) provide arbitration boards which hear and render decisions on disputes between dealers and consumers. The arbitration boards' decision are binding on the manufacturer, but not the consumer, who is free to pursue other remedies.

- *Local District Attorney Consumer Fraud Units*

Within some District Attorney's offices, there is a Consumer Fraud Unit which prosecutes criminal and/or civil cases of fraud and/or intentional or deliberate illegal activity which results in actual loss or damage to the consumer.

XI. Regulation by DMV

- *DMV's Responsibility*

The Department is charged with all investigative and enforcement duties within the Department's jurisdiction. It is the Department's responsibility to ensure that licensees are complying with statutes and regulations. The Department also has the responsibility of taking disciplinary action against a licensee who has violated any of the statutes or regulations enforced by the Department.

- *Actions and Penalties*

- A. Administrative

- The Department can, after notice and hearing, suspend or revoke the license of a dealer or lessor-retailer who has violated any terms or conditions of any statutes or regulations enforced by the Department. Mandatory monetary penalties may be required of a licensee pursuant to an agreement between the Director of the Department of Motor Vehicles and the licensee (Section 314.00, Title 13, CCR).

- B. Civil

- The District Attorney or City Attorney may impose monetary penalties against a licensee who has willfully violated any of the terms and conditions of any statutes or regulations.

- C. Criminal

- A licensee may be subject to arrest, fine or imprisonment for willfully violating any of the terms and conditions of applicable statutes or regulations.