

# Plain Dealing

A policy and administrative bulletin for licensed dealers  
from the WisDOT DMV Dealer and Agent Section



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## Franchise versus non-franchised: transferring MCOs

Franchise dealers are licensed to sell new motor vehicles of their franchised make and hold the Manufacturer Certificate of Origin (MCO) for the vehicle.

The MCO for a new vehicle **can** be reassigned to another dealer franchised to sell that same vehicle make.

New vehicle MCOs **cannot** be reassigned to a non-franchised dealer. These vehicles instead must be titled by the selling dealer.



Keep in mind the distinction between a “new” versus “used” vehicle. A vehicle which has not been privately titled (e.g. is being sold from a MCO) is considered “used” when it:

- Is operated more than 6,000 miles **OR**
- Is operated more than 4,000 miles **and** has been owned more than 120 days by the licensee currently offering the vehicle for sale **OR**
- Has sustained damage while in-transit **and** has been acquired by the motor carrier from the motor vehicle manufacturer because of the liability agreement between the manufacturer and carrier **or** has sustained damage while being operated under a rental agreement as defined in s. 344.57 (5), Stats., or a lease agreement under ch. 429, Stats. **OR**

- Is of a previous model year. A vehicle shall be considered to be a previous model year after December 31 of the calendar year identical to the manufacturer's designated model year.

## Displaying Monroney labels with used vehicles



The Monroney label is the “original” window sticker for the vehicle and lists its MSRP, as well as features present on the vehicle at the time it was delivered from the manufacturer. These labels are often available online for older model vehicle. However, dealers should not provide the Monroney label when offering a used vehicle for sale. Dealers cannot advertise comparisons between the selling price of a used vehicle and its Manufacturer Suggested Retail Price (MSRP) when the vehicle was new, per Wis. Admin. Code ch. Trans 139.03(5).

The Monroney label is only required for display on new vehicles. It may not accurately reflect the current condition of the used vehicle and its use in advertising could be considered misleading. For example, the Monroney label does not include the supplemental pricing label required by Wis. Admin. Code ch. Trans 139.04(3)(b) which describe any additions or deletions of items listed on the Monroney label performed by the selling dealer.

*“What if the MSRP isn’t listed in the pricing details in the ad, but is found only on the Monroney label? Can I provide a link to the Monroney label?”*

When evaluating advertising, the Department relies on the concept of the “one-click-away” rule: information material to the vehicle in an online advertisement can be placed up to “one click away” from the main ad through a direct link. This rule is often used when providing necessary disclosures, but it also means the dealer may be responsible for

representations of the vehicle provided in the link. A direct link to the Monroney label invites comparisons between the MSRP listed on the label and the selling price in the main ad in violation of Wis. Admin. Code ch. Trans 139.03(5).

Dealers can directly link to the Wisconsin Buyer's Guide for used vehicles, which provides information of the vehicle's condition at the time of sale.

## Clarification: selling price and Buyer's Guide

In the January 2021 edition of *Plain Dealing*, we ran an article about comparative pricing. In that article, the Department provided the following advice:

*"The Buyer's Guide price should not be altered even if you offer the vehicle for another price later."*

This guidance implied that selling price is less than the Buyer's Guide price. In the current market it is possible that selling price will be greater than the Buyer's Guide price.

For clarification, the Department is revising the guidance as follows:

If the advertised selling price of the vehicle is **less** than the Buyer's Guide price, the Buyer's Guide does not need to be changed. If the selling price is **higher** than the Buyer's Guide price, a new Buyer's Guide should be completed that reflects the higher selling price.

## Quarterly Report

The following numbers have been generated from the Dealer and Agent Section (DAS) Quarterly Report. This data is from the **third quarter** for the fiscal year beginning June 2021 (January through March 2022).

### Field Investigation Unit (FIU)

The following statistics represent the Field Investigation Unit's compliance efforts, community outreach and enforcement actions.

Activity	Third Quarter
Complaints closed	449
Dealer inspections	403
Educational presentations	1

### APU/DLU

The Agent Partnership Unit (APU) answers phone calls from dealers, government agencies, financial institutions, gas stations, grocery stores and various other types of agents throughout the state. These agents electronically process either title and registration, or renewal registration applications on behalf of the DMV.

The Dealer Licensing Unit (DLU) issues and renews multiple business license types. Individual licenses are issued to individuals who are selling or purchasing vehicles on behalf of dealerships. DLU answers dealer licensing questions as well as provides information about consumer harm and how to file a dealer complaint to the general public.

<b>Activity</b>	<b>Third Quarter</b>
APU phone calls	10,214
DLU phone calls	4,904
Business licenses issued	1,003
Individual licenses issued	5,210

#### **Lemon Law**

DMV receives telephone and email inquiries from consumers, dealers, lawyers, manufacturers, and law makers. The inquiries range from questions about the specifics of the Lemon Law, to assisting all facets of pursuing a claim.

<b>Activity</b>	<b>Third Quarter</b>
Lemon Law inquiries	110

#### **Emissions Facilities**

DMV administers the vehicle emissions testing program in 7 southeastern Wisconsin counties with the assistance of contractor OPUS Inspections Inc.

<b>Activity</b>	<b>Third Quarter</b>
Emissions Facility Inspections	224

## **FIU Enforcement Actions**

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