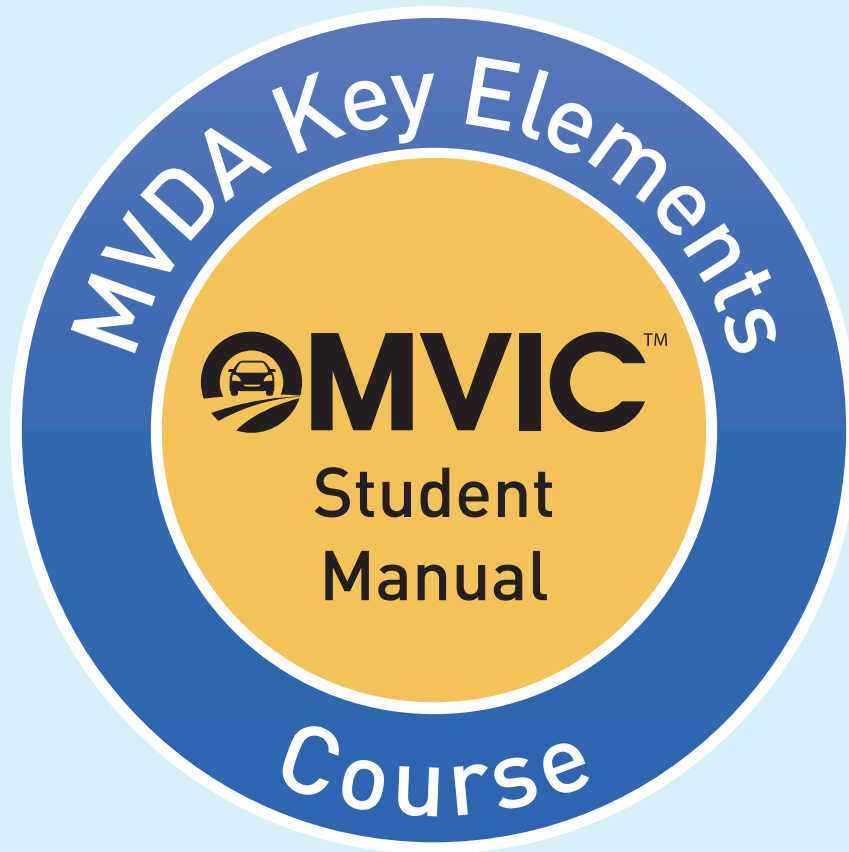


NEW!



**PROMOTING A FAIR AND INFORMED VEHICLE
SALES MARKETPLACE IN ONTARIO**

2019

For currently registered OMVIC Salespeople/Dealers

MVDA Key Elements Student Manual

Laws, Regulations and Practices

2019

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Developed by the Automotive Business School of Canada at Georgian College
in Collaboration with Terry O’Keefe and the Used Car Dealers Association

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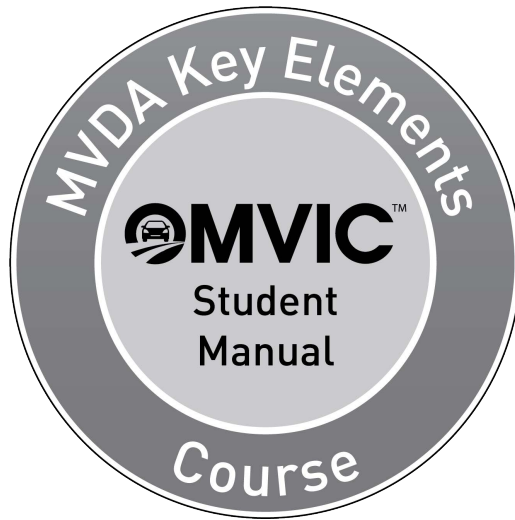


DISCLAIMER:

This Student Manual is NOT legal advice. Do not rely solely on this course material.

For details about Ontario laws and regulations, see www.e-laws.gov.on.ca.

Consult a lawyer to assist with any questions regarding the *Motor Vehicle Dealers Act, 2002*,
the *Consumer Protection Act, 2002*, and all other laws.



This *MVDA Key Elements Student Manual* explains key pieces of legislation governing the retail automotive industry, including the *Motor Vehicle Dealers Act*, the *Consumer Protection Act* and the *Sale of Goods Act*.

Students have twelve (12) weeks to study the content of the manual and to write the MVDA Key Elements Test.

NOTE: A minimum grade of 60 per cent is required to pass the course.

Preface

About the MVDA Key Elements Test

Students must write the MVDA Key Elements Test within 12 weeks of their course registration date with Georgian College. If a student does not write the test within that time, they will be assigned a grade of zero and enrolment in the course will automatically be cancelled. Should a student wish to write the MVDA Key Elements Test after the 12-week period, they must re-register with Georgian College and pay the full registration fee.



Students must write the MVDA Key Elements Test within 12 weeks of their course registration date.

Passing the Program – Important Benefit!

Individuals that successfully pass the MVDA Key Elements Course through Georgian College (Automotive Business School of Canada) *and* maintain their registration with OMVIC are entitled to use the designation “**C.A.L.E. – Certified in Automotive Law and Ethics.**”



Students successful in the MVDA Key Elements Course can use the C.A.L.E - Certified in Automotive Law and Ethics designation.

Most dealers and salespeople work hard to serve and meet the needs of customers, and yet some consumers still don't understand the benefits of buying from a registered dealer. Using the C.A.L.E. designation builds trust, strengthens credibility and demonstrates to consumers that dealers and salespeople are proven professionals who have met Georgian College and OMVIC training standards.

New Procedures for Marks, Desk Topper and Industry Pin

- If a student achieves the required minimum 60 per cent on the test, Georgian College will immediately advise OMVIC that the student has passed.
- Students will receive an email from Georgian College two to three business days after testing to confirm their test score.
- Once students successfully pass their course, Georgian College will courier the student a desk topper designating them as “Certified in Automotive Law and Ethics.” Students will also receive an OMVIC industry pin and a congratulatory letter that outlines further options for students to advance their automotive education.

Testing Process for the Self-Study Correspondence Course

Once students have completed their correspondence studies and are ready to write the test, they should consult the list of test centres and arrange a testing appointment at the centre of their choice.

The testing centres will courier the completed tests to Georgian College for evaluation. Students will receive their test scores via email, two to three business days after writing their test.

Background to the MVDA Key Elements Course

Test Day Checklist

On the day of the test, students should take the following to the testing centre:

- Georgian College confirmation letter
- This student manual
- One piece of photo identification (such as driver's licence, passport or health card)

In 1999, a collaborative effort between OMVIC and Georgian College's Canadian Automotive Institute in Barrie, which has since been rebranded as Automotive Business School of Canada, resulted in the implementation of a mandatory Automotive Certification Course for new salespeople and dealers in Ontario. OMVIC's Automotive Certification Course was the first mandatory course for salespeople and dealers in Canada.

The MVDA Key Elements Course is designed for grandfathered salespeople and dealers, and for registrants who took the full certification course prior to 2010. The intention is to promote a fair and informed vehicle sales marketplace in Ontario.

NOTE: The names used in examples throughout the course are fictional.

The course is divided into teaching chapters, each beginning with a list of learning objectives. At the end of each chapter are several questions intended to reinforce what has been read and provide students with the opportunity to apply what has been learned. The answers to these questions are provided in Appendix 1.

Note: The questions on the MVDA Key Elements Test are in multiple-choice format only. This manual, however, contains a variety of question formats to help students understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.

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Chapter 1

DEALER PREMISES AND RECORDS

- | | |
|--------------------------|--|
| 1.01 Learning Objectives | 1.06 Protecting the Privacy of Information |
| 1.02 What Do You Know? | 1.07 Trust Account |
| 1.03 Introduction | 1.08 Freeze Order |
| 1.04 Dealer Premises | 1.09 Summary |
| 1.05 Dealer Records | 1.10 Test Yourself |



1.01

Learning Objectives

After completing this chapter, you will be able to identify:

- 1.** General regulations regarding a dealer's place of business
- 2.** Registration requirements regarding dealer premises
- 3.** Specific records dealers must maintain
- 4.** Trust account requirements
- 5.** When OMVIC may issue a freeze order

EACH REGISTERED DEALER

must have a business office and a sign that is clearly visible to the public identifying the dealer's registered name. The office must be large enough to ensure records are stored securely.



Note: It is important that customers are able to find the dealer if problems or questions arise with their vehicles. Furthermore, OMVIC must be able to keep track of its registered dealers in order to regulate the industry.

1.02

What Do You Know?

Try answering these questions to test your knowledge:

1. True or False: Dealers may sell vehicles from any location, so long as they have registered a head office with OMVIC.
2. List two requirements for a dealer's premises.
3. The MVDA specifies the records a dealer must maintain.
True or False: These records must be kept for at least six years.

Keep these questions in mind as you read through the following section.



1.03

Introduction

The *Motor Vehicle Dealers Act* (MVDA) sets out specific requirements for the dealer's place of business and stipulates dealers may only trade from the place authorized and listed on the registration (unless classified as a Broker, a Lease Finance Dealer, a Fleet Lessor or an Outside Ontario Dealer).

The MVDA also outlines which records a dealer must keep, how long they must be held, and even where they can be stored. The three general types of records covered by the legislation are:

- Records relating to vehicles
- Records relating to trades (buying and selling)
- Business records

1.04

Dealer Premises

The Ontario Motor Vehicle Industry Council (OMVIC) requires the dealer's legal name (and trade name if applicable) and its address be specified on the registration application. Dealers must operate under this name and at this address, and must not use another name or invite the public to another location.

The place authorized to trade must be separate from a dwelling (this does not apply to a Wholesaler, a Broker, an Outside Ontario Dealer, a Lease Finance Dealer or a Fleet Lessor). Retailers must have a lot (and an office) at their registered address that has been approved by a municipality for the display and sale of motor vehicles. A home, driveway or curbside cannot be used as a lot. All dealers must comply with all municipal bylaws and zoning requirements.

Multiple Dealer Premises

It is possible for multiple dealers to share a single location; however, the layout of the premises must allow customers to easily determine which dealer they are dealing with and which dealer owns a displayed vehicle. To address these concerns, to ensure the proper secure storage of documents and to help maintain an effective inspections process, the following premises criteria apply to all new applicants for General Dealer registration and to currently registered General Dealers who *move*.

These dealers' premises must:

- Provide a separate, permanent, fully secured and enclosed (walls to ceiling and lockable door) office space for each dealer. The office space must be sufficient in size for the secure storage of six years of books/records, provide an exclusive work area for the dealer to conduct business (including office furnishings – desk, chairs, file cabinets), and provide electricity, heat and access to a washroom/toilet.
- Be clearly separate from other businesses operating at the location.
Note: An exception may be granted if the dealership shares an office with a related business (e.g., a repair facility) that is operated by the same dealership.
- Provide a marked area for the display of vehicles (this area and/or individual parking spots must be clearly marked with the dealership's name), or display a sign on each vehicle clearly indicating the selling dealer's name.
- Be easily accessible and open to the public, or able to be reached at a clearly posted phone number, during normal business hours, or at times that are clearly posted for the public to see.

REGISTRATION

is valid only for the name and location listed on the original application. OMVIC must be notified of any changes in name, location or ownership within five days of the change in order to maintain valid registration.

1.05

Dealer Records


General Regulations 52/57 specify strict record keeping requirements the dealer must maintain.


1. For every vehicle the dealer has for the purposes of a trade, the dealer must maintain records of:
 - a) Vehicle identification number (VIN)
 - b) Copy of any Safety Standards Certificate
 - c) Result of any inspection under the *Highway Traffic Act* (Drive Clean, etc.)
 - d) Particulars of any repair or reconditioning work done or authorized by the dealer, including the source of any parts, the cost of the work and the name of the repairer
 - e) If the odometer has been exchanged or repaired:
 - i) The reading both before and after the work
 - ii) Name of the person who did this work



Note: An Outside Ontario Dealer does not need to record b, c and d.

- f) Compliance with subsection 11(2) of the *Highway Traffic Act* (that is, applying within six days for a new vehicle permit)
 - g) Compliance with subsection 60(1) of the *Highway Traffic Act* (that is, keeping the complete records on second-hand vehicles)
2. For each trade the dealer enters into, the dealer must maintain records of:
- a) Each sale to a buyer
 - b) Each lease to a lessee
 - c) Each consignment contract
 - d) Each sale to a customer that is the subject of a consignment contract, whether the dealer is the consignor or the consignee
 - e) If the dealer is a Broker, each agreement the dealer enters into with a customer
 - f) If a Broker has facilitated the trade, an indication of this.
 - g) If the dealer is a General Dealer, each sale or lease facilitated through the dealer
 - h) Each purchase (including trade-ins) by the dealer
 - i) Sale of an extended warranty or a service plan, including where the dealer has facilitated the sale
 - j) The method and amount of payment to or by the dealer (including commissions). Payment records must include copies of cheques, receipts or any other evidence of payments. The dealer must also keep any correspondence, worksheet or other documentation that shows the breakdown of costs related to any sale or lease
3. “Records of business” to be maintained:
- a) Employee records, including the names of employees, positions held, dates of employment, how much each employee is paid and proof of payment
 - b) A list of “persons associated with the dealer” and the nature of their association
 - c) Records of all dealership bank accounts and any financing of the business, including loan agreements, credit arrangements or any security interest granted by the dealer
4. Records must be maintained for six years.
5. If any of the above required records become unavailable due to “force majeure” (a catastrophic event, such as theft, fire or flood), the dealer must notify OMVIC in writing within five days, specifying what was lost and the reason for the loss. OMVIC will discuss with the dealer the immediate steps that should be taken by the dealer to reconstruct these records.

 **Note: A Fleet Lessor does not need to record f and j.**

 **Note: the above does not apply to a Lease Finance Dealer or a Fleet Lessor.**

6. The required records can be stored in any location from which the dealer is authorized to trade (except for a private dwelling). If space isn't available at the dealer's registered address for the records, they may choose another location, so long as they apply for and receive written authorization from OMVIC's Registrar. In order for a remote storage location to be approved, it must be accessible to OMVIC staff for inspection during normal business hours.

Documents Related to Dealer Premises

OMVIC requires all dealers (existing or new) to provide the following documentation related to their premises:

- A valid municipal permit allowing the sale/display of vehicles
- A premises lease with a minimum term of six months; the lease must permit the sale/inventory of vehicles and provide unrestricted access to the premises by the dealer
- Evidence of compliance with the *Compulsory Automobile Insurance Act*: i.e., a statement of insurance (garage auto policy OAP4) with a minimum third-party coverage of \$1,000,000

“FORCE MAJEURE”:

A catastrophic event (e.g., theft, fire, flood) outside the control of the parties and that could not be avoided by the exercise of due care

1.06

Protecting the Privacy of Information

Question: If a salesperson leaves a dealer to work at another, can he or she take a list of past customers and contact those customers to let them know they have moved?

Answer: No, and if they do, they may have breached privacy laws.

Client or lead information is *personal information* if it contains any two elements that may identify an individual such as name and date of birth, name and address, name and phone number (or email address), or if it is a single piece of information that would identify a specific individual such as a driver's licence, credit card number, health card, etc.

Personal information can be retained only with the **express permission** of the person and can only be used for the purposes for which the person has provided consent in writing. Therefore, client information belongs to the dealership, not an employee of the dealership, and ***it is the dealer who retains responsibility for the maintenance and protection of personal information (including the salesperson's copy of bills of sale) in compliance with privacy legislation.***

If a salesperson takes personal information, it could be argued the dealership has failed to meet its obligations.

To help address this, dealers might consider setting out in an employment contract clauses that make it clear that client and lead information is the property of the employer and the removal of the information will be treated as

TRUST ACCOUNT

monies must be kept separate from the dealer's general funds and can never be used as collateral.

DETAILS of the dealer trust account must be filed with OMVIC (see General Regulation 58).

theft. This clause should be brought to the attention of each current and new hire and they should be asked to initial it.

As well, dealers should consider the following: have procedures in place to ensure their customers' personal information is kept under lock and key, preferably in a centralized location such as an office, which can also be locked. Personal information distributed to sales personnel should be marked DO NOT COPY and should be collected at the end of an employee's shift.

Finally, if a salesperson believes their situation is an exception to these rules, they should discuss it with their employer and seek independent legal advice before using anyone's personal information.

1.07

Trust Account

The purpose of maintaining a trust account is to ensure customers who leave large deposits (greater than \$10,000) or give the dealer vehicles to be sold on consignment have their monies protected until the deal is completed.

A General Dealer must have a trust account to hold any deposit of more than \$10,000 received from a vehicle purchaser.

All monies received by the dealer from a consignment sale must be deposited in a trust account when the consignor is an individual who purchased the vehicle for personal or family use.

The following information is provided as a guideline only and is not meant to be authoritative. The dealer is encouraged to review the relevant sections of the MVDA and its Regulations and to consult a lawyer if the dealer has any questions.

The trust account must be set up at a financial institution that is a bank, a loan or trust corporation, a credit union or an authorized foreign bank under Section 2 of the *Bank Act*.

The name on this account should contain the words "*Motor Vehicle Dealers Act, 2002, Trust Account*" and the registered name of the dealer. If there is not enough room for both, just use the words "Trust Account" and the dealer's registered name.

In the case of a consignment deal, the dealer must deposit all monies received from the buyer directly into the trust account. None of this money can be taken out, except to make a payment to the consignor in accordance with the written consignment agreement. Only after that may the dealer withdraw any excess (e.g., monies received from the buyer that were greater than what was owed the consignor).

It is essential that the trust account be reconciled monthly. OMVIC will provide detailed instructions for such reconciliation upon request.

1.08

Freeze Order

In very extreme circumstances, in the public interest, OMVIC may issue a “freeze order” without notice to the dealer that would freeze the dealer’s assets or trust funds. This may occur if a search warrant has been issued or a criminal proceeding has started and customers need protection. A freeze order may also be issued against an alleged curbsider (a non-registered salesperson or dealer).



1.09

Summary

The MVDA has specific requirements regarding a dealer’s place of business.

General Dealers must have a trust account to hold any deposit of more than \$10,000 received from a buyer as well as to hold all monies gained from consignment sales.

Trust account monies must be kept separate from the dealer’s general funds and can never be used as collateral. In very extreme circumstances, OMVIC may issue a freeze order without notice to the dealer to freeze the dealer’s assets or trust funds.



TRUST ACCOUNT

reconciliations must be prepared within 30 days of receiving the trust monthly statements from the financial institution (unless there is a zero balance on the trust account or there has been no activity on the trust account since the last reconciliation).

Test Yourself

REMEMBER:

The questions on the MVDA Key Elements Test are in multiple-choice format only. This manual, however, contains a variety of question formats to help you understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.



The first questions below are the same questions asked in “What Do You Know?” at the beginning of this chapter. Try answering these questions again and compare your results with your earlier answers.

Then, answer the additional questions.

1. True or False: Dealers may sell vehicles from any location, so long as they have registered a head office with OMVIC.
2. List two requirements for a dealer's premises.
3. The MVDA specifies the records a dealer must maintain.
True or False: These records must be kept for at least six years.
4. List four examples of the information (related to vehicles sold or leased) that must be maintained in a dealer's records.
5. Which of the following records related to employees must be maintained:
 - a) Employee names
 - b) Employee salaries
 - c) Proof of payments
 - d) All of the above
6. Choose the most correct answer. If a dealer's records are destroyed or stolen, the dealer must notify:
 - a) The OMVIC inspector when he or she arrives for the next scheduled inspection
 - b) OMVIC, in writing, within five days
 - c) An OMVIC investigator within 30 days
 - d) The Ministry of Consumer Services, in writing, within 10 days
7. What must a dealer do if they wish to store records somewhere other than the location from which they trade?
8. In order for a remote storage location to be approved by OMVIC, which condition must be met?
 - a) The location has a security system
 - b) The location is always accessible to OMVIC staff during normal business hours
 - c) The location is in the same municipality as the dealer's registered address
 - d) All of the above
9. True or False: Under the MVDA, all dealers are required to maintain a trust account.
10. Deposits over what amount must be kept in a trust account?
 - a) \$1,000
 - b) \$5,000
 - c) \$10,000
 - d) No amount of deposit needs to be placed in a trust account
11. True or False: Before issuing a freeze order (freezing the dealer's assets or trust funds), OMVIC must first notify the dealer.

Refer to Appendix 1 for the correct answers. Review the relevant section of the chapter for any question you answered incorrectly.

Chapter 2

CONTRACT REQUIREMENTS

(For Contracts with Customers – Not with Other Dealers)

2.01 Learning Objectives	2.08 Contracts for Sales on Consignment
2.02 What Do You Know?	2.09 Deposit to be Returned if No Contract is Made
2.03 Introduction	2.10 Reflecting Negative Equity on Contracts
2.04 Contract for Sale of a New Vehicle	2.11 Financing Representations
2.05 Contract for Sale of a Used Vehicle	2.12 Summary and Sample Contract
2.06 Contract for Lease of a Vehicle	2.13 Test Yourself
2.07 Additional Contract Requirements for Trade-Ins on Sales and Leases	



2.01

Learning Objectives

After completing this chapter, you will understand:

- 1.** The information that must be included in retail contracts for the sale of a new vehicle
- 2.** The information that must be included in retail contracts for the sale of a used vehicle
- 3.** The information that must be included in contracts for a leased vehicle
- 4.** Contract requirements for trade-ins on sales and leases
- 5.** Contract requirements for consignment sales

THE MOTOR VEHICLE DEALERS ACT

sets out specific details and information that must be included in every vehicle sale or lease contract with a customer, even stipulating the type and font size that must be used.

2.02

What Do You Know?

Try answering these questions to test your knowledge:

1. On a purchase contract, what **must** be printed in 14 pt. bold font next to the buyer's signature?
2. List four items that must be in a contract for the sale of a new vehicle.
3. If a dealer does not have a specific new vehicle in stock, but will locate the vehicle and bring it in, what must be disclosed to the purchaser regarding the mileage?

Keep these questions in mind as you read through the following section.



2.03

Introduction

The *Motor Vehicle Dealers Act* (MVDA) sets out specific details and information that must be included in every vehicle sale or lease contract with a customer. As well, the MVDA stipulates *advisory* or *educational* statements that must be included in contracts. These statements are designed to ensure customers fully understand their rights and obligations, to inform purchasers of the existence and role of the Ontario Motor Vehicle Industry Council (OMVIC), the Compensation Fund and the Canadian Motor Vehicle Arbitration Plan (CAMVAP), and to help eliminate the common misperception of a “cooling-off period.” The MVDA even stipulates the type and size of font that must be used in these statements.

All required disclosures, including the contract requirements discussed in this chapter, must be made in a “*clear, comprehensible and prominent manner*,” as per the MVDA General Regulations and the *Consumer Protection Act*. This chapter is primarily based on the requirements set out in the Regulations under the MVDA, Sections 38–46 and 49.

2.04

Contract for Sale of a New Vehicle

In a clear, comprehensible and prominent manner, a contract for the sale of a new vehicle must include the following:

1. Buyer's name and address
2. Dealer's registered name (and legal name if different from registered name), address and registration number

3. Salesperson's name and registration number
4. Date of sale and date of delivery
5. Vehicle identification number (VIN), if known
6. Make, model, model year and trim level of vehicle
7. Colour and body type of vehicle
8. If the contract is for a new specifically identified motor vehicle (e.g., VIN is known, in stock, etc.), the maximum distance that will be shown on the odometer at time of delivery
9. If the contract does not specifically identify a new vehicle (e.g., a vehicle which must be located, VIN unknown), the maximum distance that will be shown on the odometer at the time of delivery *or* a statement initialled by the buyer that there is no maximum
10. a) The manufacturer's suggested retail price (MSRP)
b) Itemized list of MSRPs of all extra equipment and options in the contract
c) Total MSRP [(a) plus (b)]
11. An itemized list of the charges the customer is required to pay (including freight, pre-delivery inspection, fees and levies)
12. If the dealer has agreed to provide items or inducements at no extra charge, an itemized list with "fair and accurate" descriptions and retail value of each (e.g., DVD players, warranties, service plans, etc.)
13. The total sale price, indicating the charges in 11 (above)
14. a) Down payment or deposit paid by buyer
b) Balance to be paid
15. Itemized list of all other charges the buyer will pay at time of delivery (e.g., taxes, licensing)
16. If the dealer helps a consumer obtain financing, a statement providing the consumer with the information required in the "Initial Disclosure Statement" (IDS) of Section 79 of the *Consumer Protection Act*.
The IDS provides the consumer with full disclosure of payment terms, including monthly payments, interest rate, term, total payments and other charges. Refer to Chapter 5.12 for more details.
17. If the dealer or salespeople will receive from any source other than the dealer any commission, remuneration or incentive for providing the application for financing, a statement to that effect that is initialled by the buyer (this includes a dealer reserve)
18. If there is a trade-in, the "Additional Contract Requirements for Trade-Ins" (see Section 2.07)

19. This “Sales Final” Statement on the same page as the buyer’s signature and adjacent to the signature:

SALES FINAL (in 14 pt. bold font)

Please review the entire contract, including all attached statements, before signing. This contract is final and binding once you have signed it unless the motor vehicle dealer has failed to comply with certain legal obligations.

20. This OMVIC/Compensation Fund “Important Information” Statement:

IMPORTANT INFORMATION RESPECTING MOTOR VEHICLE SALES (in 14 pt. bold font)

In case of any concerns with this sale, you should first contact your motor vehicle dealer. If concerns persist, you may contact the Ontario Motor Vehicle Industry Council as the administrative authority designated for administering the *Motor Vehicle Dealers Act*.

You may be eligible for compensation from the Motor Vehicle Dealers Compensation Fund if you suffer a financial loss from this trade and if your dealer is unable or unwilling to make good on the loss.

You may have additional rights at law.

Contact **OMVIC**™ at 1-800-943-6002 or www.omvic.on.ca.

21. One of these two CAMVAP Statements in large bold print:
a) If CAMVAP is available:

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan may be available to resolve disputes concerning alleged manufacturer’s defects or implementation of the manufacturer’s new motor vehicle warranty.

b) If CAMVAP is NOT available:

CANADIAN MOTOR VEHICLE ARBITRATION PLAN NOT AVAILABLE

The manufacturer of this vehicle is not a participant in the Canadian Motor Vehicle Arbitration Plan. Therefore, the program under that plan is not available to resolve disputes concerning alleged manufacturer's defects or implementation of the manufacturer's new motor vehicle warranty.

22. All restrictions, limitations and conditions imposed on the buyer, stated in a clear, comprehensible and prominent manner.
23. Any required disclosure statement related to a vehicle's previous use, history and/or condition (see Chapter 3).
24. A statement of any particular facts respecting the vehicle that the buyer considers material to the purchase.

The dealer is responsible for ensuring that: the contract is signed by the parties; signed by the salesperson; buyer receives a copy immediately after signing.

Note: There must be a separate contract for each vehicle sold.

About Demonstrators

Demonstrators (demos) are used vehicles therefore new vehicle specific charges (e.g. air tax, freight) should not be itemized on a Bill of sale when selling a demo.

While demonstrators are legally considered used vehicles, OMVIC recognizes most manufacturers qualify demos for new vehicle incentives and/or financing and that this may require the use of a new vehicle purchase contract. However, when selling a demonstrator, dealers should remove charges for freight, PDI, air tax, tire stewardship, etc. from the contract.

DMS System Limitations?

Some dealers have claimed their Dealer Management System (DMS) software does not allow new vehicle charges like freight to be deleted on bills of sale. OMVIC has contacted the major dealer software providers who explained their systems do allow charges like freight to be de-selected or zeroed. Dealers are encouraged to contact their DMS suppliers if they require assistance.

Should a dealer use software that will not allow new vehicle charges to be removed when selling a demo, the dealer should include a discount on the bill of sale, equal to the new vehicle charges, and separate from any other discount offered to the customer. This allows the dealer to demonstrate he/she is not charging freight, PDI, air tax, tire stewardship fee, etc., on a used vehicle.

2.05

Contract for Sale of a Used Vehicle

In a clear and comprehensible manner, a contract for the sale of a used vehicle *must* include the following:

1. Buyer's name and address.
2. Dealer's registered name (and legal name if different from registered name), address and registration number.
3. Salesperson's name and registration number.
4. Date of sale and date of delivery.
5. VIN.
6. Make, model, model year and trim level of vehicle.
7. Colour and body type of vehicle.
8.
 - a) The total distance the vehicle has been driven
 - b) If the vehicle is a used vehicle and the dealer cannot determine the total distance the vehicle has been driven, but can determine a distance the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that "the total distance the vehicle has been driven is believed to be higher"
 - c) If the dealer cannot determine the total distance the vehicle has been driven, or a past distance/date, a statement that "the total distance the vehicle has been driven is unknown and may be substantially higher than the reading shown on the odometer"
9. An itemized list of the charges the customer is required to pay (including any fees and levies).
10. If the dealer has agreed to provide items or inducements at no extra charge, an itemized list with "fair and accurate" descriptions and retail value of each (e.g., DVD players, warranties, service plans).
11. The total sale price, indicating the charges in 9 (above).
12.
 - a) Down payment or deposit paid by buyer
 - b) Balance to be paid
13. Itemized list of all other charges the buyer will pay at time of delivery (e.g., taxes, licensing).
14. If the dealer helps a consumer obtain financing, a statement providing the consumer with the information required in the IDS of Section 79 of the *Consumer Protection Act*. The IDS provides the consumer with full disclosure of payment terms, including monthly payments, interest rate, term, total payments and other charges. Refer to Chapter 5.12 for more details.
15. If the dealer or salespeople will receive from any source other than the dealer any commission, remuneration or incentive for providing the application for financing, a statement to that effect that is initialled by the buyer (this includes a dealer reserve).

16. If there is a trade-in, the “Additional Contract Requirements for Trade-Ins” (see Section 2.07).
17. This “Sales Final” Statement on the same page as the buyer’s signature and adjacent to the signature:

SALES FINAL (in 14 pt. bold font)

Please review the entire contract, including all attached statements, before signing. This contract is final and binding once you have signed it unless the motor vehicle dealer has failed to comply with certain legal obligations. (in 12 pt. bold font)


18. This OMVIC/Compensation Fund “Important Information” Statement:

IMPORTANT INFORMATION RESPECTING MOTOR VEHICLE SALES (in 14 pt. bold font)

In case of any concerns with this sale, you should first contact your motor vehicle dealer. If concerns persist, you may contact the Ontario Motor Vehicle Industry Council as the administrative authority designated for administering the *Motor Vehicle Dealers Act*.

You may be eligible for compensation from the Motor Vehicle Dealers Compensation Fund if you suffer a financial loss from this trade and if your dealer is unable or unwilling to make good on the loss.

You may have additional rights at law.

Contact  at 1-800-943-6002 or www.omvic.on.ca.

19. One of these two CAMVAP Statements in large bold print:
 - a) If CAMVAP is available:

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan may be available to resolve disputes concerning alleged manufacturer’s defects or implementation of the manufacturer’s new motor vehicle warranty.

b) If CAMVAP is NOT available:

CANADIAN MOTOR VEHICLE ARBITRATION PLAN NOT AVAILABLE

The manufacturer of this vehicle is not a participant in the Canadian Motor Vehicle Arbitration Plan. Therefore, the program under that plan is not available to resolve disputes concerning alleged manufacturer's defects or implementation of the manufacturer's new motor vehicle warranty.

20. All restrictions, limitations and conditions imposed on the buyer, stated in a clear, comprehensible and prominent manner.
21. An itemized list of all repairs under the contract the dealer has made or will make, and the cost to be paid by the buyer.
22. If a current Safety Standards Certificate (SSC) under the *Highway Traffic Act* is provided for the vehicle, the following SSC Statement in bold print:

SAFETY STANDARDS CERTIFICATE (SSC)

A Safety Standards Certificate (SSC) is only an indication that the motor vehicle met certain basic standards of vehicle safety on the date of inspection.

23. If the dealer is selling the vehicle on an "as is" basis, the following Vehicle Sold "As Is" Statement in bold print:

VEHICLE SOLD "AS IS"

The motor vehicle sold under this contract is being sold "as is" and is not represented as being in road worthy condition, mechanically sound or maintained at any guaranteed level of quality. The vehicle may not be fit for use as a means of transportation and may require substantial repairs at the buyer's expense. It may not be possible to register the vehicle to be driven in its current condition.

Note: Dealers cannot sell a vehicle "as is" if an SSC has been issued for the vehicle.

Note: If a vehicle is sold "as is," the "as is" statement must be initialled by the purchaser.

24. Any required disclosure statement related to a vehicle's previous use, history and/or condition (see Chapter 3).
25. A statement of any particular facts respecting the vehicle that the buyer considers material to the purchase. Example: if the purchaser requests a specific disclosure such as "has this car ever been used as a tow vehicle?" The dealer must provide the appropriate information. If the dealer can't tell them with certainty, say so. In our example, if the dealer can assure the customer the vehicle has never had a hitch installed, put it in writing.



Note: There must be a separate contract for each vehicle sold.



Note: All required disclosures (including material facts) must be made, even if the vehicle is being sold as is or unfit.

The dealer is responsible for ensuring the contract is signed by the parties, by the salesperson and that the buyer receives a copy immediately after signing.

2.06

Contract for Lease of a Vehicle

There must be a separate contract for each vehicle leased, and it is the responsibility of the dealer (other than a Fleet Lessor) to ensure that the following are disclosed in a clear, comprehensible and prominent manner:

1. The name and address of the lessee.
2. Dealer's registration number and registered name (and legal name of dealer if different from registered name).
3. Business address.
4. Salesperson's registration number and name.
5. VIN, if known; colour; body type.
6. If vehicle subject to a service plan, a statement to that effect.
7. If there is a trade-in, the "Additional Contract Requirements for Trade-Ins"; General Regulation 43 (see Section 2.07).
8. This OMVIC/Compensation Fund "Important Information" Statement:

IMPORTANT INFORMATION RESPECTING MOTOR VEHICLE SALES

In case of any concerns with this sale, you should first contact your motor vehicle dealer. If concerns persist, you may contact the Ontario Motor Vehicle Industry Council as the administrative authority designated for administering the *Motor Vehicle Dealers Act*.

You may be eligible for compensation from the Motor Vehicle Dealers Compensation Fund if you suffer a financial loss from this trade and if your dealer is unable or unwilling to make good on the loss.

You may have additional rights at law.

Contact **OMVIC**™ at 1-800-943-6002 or www.omvic.on.ca.

9. One of these two CAMVAP Statements in large bold print:

a) If CAMVAP is available:

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan may be available to resolve disputes concerning alleged manufacturer's defects or implementation of the manufacturer's new motor vehicle warranty.

b) If CAMVAP is NOT available:

CANADIAN MOTOR VEHICLE ARBITRATION PLAN NOT AVAILABLE

The manufacturer of this vehicle is not a participant in the Canadian Motor Vehicle Arbitration Plan. Therefore, the program under that Plan is not available to resolve disputes concerning alleged manufacturer's defects or implementation of the manufacturer's new motor vehicle warranty.

10. If a current SSC under the *Highway Traffic Act* is provided for the vehicle, the following SSC Statement in bold print:

SAFETY STANDARDS CERTIFICATE

A Safety Standards Certificate is only an indication that the motor vehicle met certain basic standards of vehicle safety on the date of inspection.



Note: CAMVAP Statements are required only if the vehicle is the current model year or one of the previous four, and has been driven less than 160,000 km.

11. All restrictions, limitations and conditions imposed on the lessee, stated in a clear, comprehensible and prominent manner.
12. Any required disclosure statement related to a vehicle's previous use, history and/or condition (see Chapter 3).
13. A statement of all particular facts, if any, respecting the vehicle that the lessee considers material to the lease.
14. If the lessee is a consumer, the dealer (other than a Fleet Lessor) must provide the information required in the "Lease Disclosure Statement" (LDS) of Section 79 of the *Consumer Protection Act*. The LDS provides the lessee with full disclosure of payment terms including monthly payments, interest rate, term, total payments and other charges. Refer to Chapters 5.13 for more details.

The dealer is responsible for ensuring the contract is signed by the parties and the salesperson, and that the lessee receives a copy immediately after signing. If the vehicle being leased is used, the dealer must also ensure the lessee receives a copy of the current SSC.

2.07

Additional Contract Requirements for Trade-Ins on Sales and Leases

The following applies when a dealer sells or leases a vehicle and the buyer or lessee trades in a vehicle to the dealer (or to another registered dealer). If the selling or leasing dealer receives the trade-in, this dealer must ensure the sale or lease contract includes in a clear, comprehensible and prominent manner the information set out below.

If another registered dealer receives the vehicle being traded in, then that dealer is responsible for ensuring the trade-in contract includes in a clear, comprehensible and prominent manner the information set out below:

1. The name and address of the owner of the traded-in vehicle
2. Dealer's registration number and registered name (and legal name if different from registered name)
3. Salesperson's registration number and name
4. Date of trade-in, if known, or manner of determining date, if known
5. Make, model, trim level, model year, colour, VIN and body type of the trade-in vehicle
6. The credit for the trade-in (or the amount paid for the vehicle by the dealer if another registered dealer receives the actual vehicle)



Note: If the contract provides for the trade-in of more than one vehicle, the information required must be shown separately for each vehicle.

7. A statement from the person trading in the vehicle of the “additional information in contracts of sale and leases” found in Section 42 of the Ontario Regulations under the MVDA (i.e., disclosure of previous uses, vehicle history, quality, condition)
8. Recorded odometer reading
9. Condition of the vehicle
10. If the dealer receiving the vehicle agrees to pay any outstanding loan or outstanding repair or storage bill, a statement to that effect

To assist dealers with the requirement to obtain a “statement from the person trading in the vehicle of the additional information...found in Section 42 of the General Regulations,” some associations and business have created documents to assist with compliance. Below is a copy of the UCDA Trade-in Appraisal and Disclosure Form.

VIN: 10 th DIGIT	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1	2	3	4	5	6	7	8	9	A	B	C	D	E	F	

UCDA CUSTOMER INFORMATION, APPRAISAL & DISCLOSURE FORM
www.ucdasearches.com
 or call: 416-599-7412 or 1-800-668-8265

APPRAISAL DATE: _____ STOCK NO.: _____
☐ UCDA Lien Search & Kwik Check™ ☐ CAN / VEHICLE Ontario History Search
☐ Auto Check™ ☐ CARFAX™
☐ Out-of-Province Lien Search ☐ CARFAX™

APPRAISED BY: _____

LAST NAME _____ FIRST NAME _____
 ADDRESS _____ CITY _____ PROVINCE _____ POSTAL CODE _____
 HOME PHONE _____ BUS. PHONE _____ CELL PHONE _____ E-MAIL _____

VIN # _____ YEAR _____ MAKE _____ MODEL _____ TRANS _____ COLOUR _____ # OF CYL _____

☐ GAS ☐ DIESEL ☐ HYBRID REGISTRATION VIEWED ☐ Yes ☐ No ACCIDENT DAMAGE ☐ Yes ☐ No
 ORIGINAL OWNER ☐ Yes ☐ No PURCHASED FROM _____
 VIN CHECKED (Dash & Door) ☐ Yes ☐ No HAS VEHICLE EVER BEEN DECLARED A TOTAL LOSS BY AN INSURER ☐ Yes ☐ No
 ORIGINAL MFR VIN PLATE ☐ Yes ☐ No THEFT RECOVERY ☐ Yes ☐ No
 REGISTERED LIEN ☐ Yes ☐ No MANUFACTURER'S WARRANTY CANCELLED ☐ Yes ☐ No

ODOMETER (Exact # at time of Appraisal) ☐ Km or ☐ Miles _____ IS ODOMETER FAULTY, BEING REPLACED OR ROLLED BACK? ☐ Yes ☐ No
 IF YES, EXPLAIN: _____

IF DISTANCE TRAVELLED UNKNOWN, EXPLAIN: _____
 DAILY RENTAL ☐ Yes ☐ No POLICE CRUISER ☐ Yes ☐ No ANTI-LOCK BRAKES INOPERABLE ☐ Yes ☐ No N/A
 FIRE DAMAGED ☐ Yes ☐ No EMERG. SERVICES VEHICLE ☐ Yes ☐ No AIR BAGS MISSING INOPERABLE ☐ Yes ☐ No N/A
 IMMERSED IN WATER ☐ Yes ☐ No TAXI OR LIMO ☐ Yes ☐ No POLLUTION CONTROL INOPERABLE ☐ Yes ☐ No N/A
 ANY BODY PANELS PAINTED OR REPLACED ☐ Yes ☐ No IF YES, EXPLAIN: _____

FOR HYBRID-TECH VEHICLES:
 WHERE HAS THE VEHICLE BEEN SERVICED? _____
 HAVE ANY OF THE HYBRID COMPONENTS BEEN REPAIRED/REPLACED? ☐ Yes ☐ No IF YES, EXPLAIN: _____
 IS THERE A MANUFACTURER'S EXTENDED WARRANTY ON THE HYBRID COMPONENTS? ☐ Yes ☐ No IF YES, EXPLAIN: _____
 WARNING INDICATORS (Are any of the listed warning indicators illuminated?)
 BATTERY ☐ Yes ☐ No FUEL SYSTEM ☐ Yes ☐ No BRAKING SYSTEM ☐ Yes ☐ No
 AIR BAGS ☐ Yes ☐ No OTHER: _____

EQUIPMENT:
 POWER WINDOWS ☐ AIR BAGS ☐ AIR CONDITIONING ☐ CD/MP3 ENTERTAINMENT CENTRE ☐
 POWER LOCKS ☐ ABS ☐ WHEELS (ALLOY) ☐ AUTO TRANSMISSION ☐ MANUAL TRANSMISSION ☐
 CRUISE CONTROL ☐ AIR-ROOF ☐ KEYLESS ENTRY ☐ LEATHER INTERIOR ☐ NAV SYSTEM ☐
 DOES VEHICLE REQUIRE REPAIRS?
 ENGINE ☐ COMPUTER ☐ Yes ☐ No
 SUSPENSION/SUBFRAME ☐ ELECTRICAL SYSTEM ☐ Yes ☐ No
 TRANSMISSION ☐ AIR CONDITIONING ☐ Yes ☐ No
 FUEL SYSTEM ☐ STRUCTURAL PARTS DAMAGED ☐ Yes ☐ No
 POWER TRAIN ☐ ALTERED OR REPAIRED ☐ Yes ☐ No

ANY PREVIOUS DAMAGE REPAIRED EXCEEDING \$3,000? ☐ Yes ☐ No
 HAVE THE MANUFACTURER'S BADGES OR DECALS BEEN CHANGED OR HAVE THE ORIGINAL PRODUCTION SPECIFICATIONS BEEN CHANGED? ☐ Yes ☐ No
 ANY OTHER DISCLOSURES? _____

INSPECTION AT APPRAISAL:
☐ ENGINE STARTS & RUNS
☐ TRANSMISSION FORWARD & REVERSE
☐ ENGINE LIGHT - ON THEN GOES OFF
☐ ANTI-LOCK BRAKES - ON THEN GOES OFF
☐ AIRBAGS - ON THEN GOES OFF
☐ AIR CONDITIONING OPERATING
☐ AWD / 4 WD OPERATING
☐ WINDSHIELD - NO CRACKS
☐ CD, CASSETTE, ENTERTAINMENT CENTRE

INSPECTION AT DELIVERY:
☐ ENGINE STARTS & RUNS
☐ TRANSMISSION FORWARD & REVERSE
☐ ENGINE LIGHT - ON THEN GOES OFF
☐ ANTI-LOCK BRAKES - ON THEN GOES OFF
☐ AIRBAGS - ON THEN GOES OFF
☐ AIR CONDITIONING OPERATING
☐ AWD / 4 WD OPERATING
☐ WINDSHIELD - NO CRACKS
☐ CD, CASSETTE, ENTERTAINMENT CENTRE

REPAIRS REQUIRED:
☐ PAINT
☐ BRAKES
☐ TIRES
☐ ENGINE
☐ TRANSMISSION
☐ BODY WORK / DENTS
☐ GLASS
☐ OTHER _____

DISTANCE TRAVELLED AT APPRAISAL: _____ DISTANCE TRAVELLED AT DELIVERY: _____
 VALUE OF TRADE-IN: \$ _____

Please be advised that the trade-in value may be adjusted if the vehicle is not in the same condition at time of delivery. Customer Initials: _____

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Courtesy UCDA

2.08

Contracts for Sales on Consignment

Whether or not the consignor is a registered dealer, the dealer must ensure that the consignment contract is in writing and is signed by both the dealer and the consignor.

If the consignor is “an individual exempt from registration” (for example, an individual consigning their personal or family car, a lawyer winding up an estate, etc.), the contract must show in a clear, comprehensible and prominent manner:

1. Consignor’s name and address
2. Dealer’s registration number and registered name (and legal name if different from registered name)
3. The make, model, trim level, model year, colour, VIN and body type of the vehicle
4. If the vehicle is a used vehicle, the total distance that the vehicle has been driven (if the dealer can determine the distance)
5. If the vehicle is a used vehicle and the dealer cannot determine the total distance that the vehicle has been driven, but can determine a distance the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that “the total distance the vehicle has been driven is believed to be higher”
6. If the vehicle is a used vehicle and the dealer cannot determine the total distance the vehicle has been driven, or a past distance/date, a statement that “the total distance the vehicle has been driven is unknown and may be substantially higher than the reading shown on the odometer”
7. The total amount that the dealer will charge the consignor on the sale of the vehicle (whether as a fixed amount or a commission share), and an itemized list of all components of those charges
8. An estimate of the selling price of the vehicle and a minimum selling price of the vehicle
9. The term of the contract (and if applicable, how parties can extend it, or a statement they cannot extend it)
10. If the contract can be terminated before its term expires, the conditions regarding such early termination (including fees, if any, payable for early termination)
11. All restrictions, limitations, conditions and other obligations imposed on the consignor under the contract (stated in a clear, comprehensible and prominent manner)

2.09

Deposit to be Returned if No Contract is Made

If a customer (who is not a registered motor vehicle dealer) gives a dealer a deposit, or a vehicle as a trade-in before entering into a written contract for the purchase or lease of a vehicle, the customer may at any time demand the return of the deposit or trade-in vehicle and the dealer shall immediately return the deposit or the trade-in vehicle to the customer, even if:

1. The dealer is not the dealer who sells or leases the vehicle being sold or leased to the customer.
2. The customer does not enter into a contract for the purchase or lease of a motor vehicle.

For this purpose, the customer has not “entered into a contract” unless he or she has signed an agreement that contains all of the important disclosures required by the MVDA.

2.10

Reflecting Negative Equity on Contracts

It is common today for lenders to finance vehicle purchases (and leases) that include negative equity; that is, when the customer owes more on their trade-in than the trade-in is worth. The Motor Vehicle Dealers Act (MVDA) requires that contracts **accurately** depict the true nature of the transaction: this includes accurately identifying negative equity.

This is an example of a correct way to reflect negative equity:

TOTAL VEHICLE PRICE		43,367.30
TRADE-IN ALLOWANCE		13,000.00
TOTAL VEHICLE PRICE LESS TRADE-IN ALLOWANCE		30,367.30
H.S.T. ON TOTAL VEHICLE PRICE LESS TRADE-IN ALLOWANCE (\$ 30,367.30)		3,947.75
Fuel		40.00
LICENCE FEE <input type="checkbox"/> TRANSFER <input type="checkbox"/> NEW PLATES <input type="checkbox"/> CITY OF TORONTO PVT \$60		NEW 32.00
FUEL (INCLUDES H.S.T.)		N/A
PAYOUT ON LIENS AGAINST TRADE-IN		20,000.00
H.S.T. REGISTRANT NO.		

The trade-in allowance and lien payout are clear - identifying \$7,000 in negative equity.

Inflating the price of the vehicle, fees or other products (e.g. extended warranties), or adding fictitious charges to bury or hide negative equity, is illegal, even with a customer's acceptance of the practice. Dealers who create (or have a customer sign) an addendum acknowledging that the contract does not accurately reflect the true nature of the transaction (i.e. negative equity has been hidden) have actually created a written acknowledgment that the dealer has contravened the MVDA and Code of Ethics.

Note: these same principles apply to accurately reflecting the cost/value of an early lease return penalty or when financing includes additional cash that is returned to the consumer.

Lenders

In cases where negative equity exists, OMVIC encourages dealers to arrange financing for their customers only with lenders who allow for the truthful disclosure of negative equity. Falsifying information, even with a customer's acceptance and a lender's willful blindness, is prohibited.

2.11 Financing Representations

Arranging financing for customers is a valuable service provided by most dealers. But that service must entail providing clear and truthful information, both verbally during discussions/negotiations and in writing on the contract, to help customers make informed decisions and ensure they receive the best possible financing for their vehicle purchases.

Expectations Related to Customer Financing

Adherence to the following will help dealers and salespeople comply with the MVDA and Code of Ethics:

- Provide customers with clear information and financing options
- Notify (and get approval from) customers if the credit application will be sent to more than one lender
- Provide the customer with the offers from all lenders (if submitted to more than one)
- Accurately reflect the Annual Percentage Rate (APR) of a loan (the APR must include all fees)
- Ensure consumers understand the full price of a vehicle including the cost of borrowing, not just the payment
- Offer the best interest rate and terms for which the customer qualifies
- Disclose on the Bill of Sale if the dealer receives a fee from a lender for arranging financing
- Ensure the Bill of Sale depicts the true nature of the transaction including accurately identifying negative equity

Is an Extended Term Loan (ETL) the Best Option?

Before recommending seven, eight or nine year loans, dealers and salespeople should have a thorough conversation with their customers to determine what financial product best meets their needs. Some of the questions that may assist in making this recommendation include:

- How long does the consumer usually keep a vehicle? Do they usually trade it in before paying it off? This often leads to negative equity.
- How much does the consumer drive? Will the vehicle reliably last the term of the loan?
- What is the "overall" cost of the loan? Longer terms may mean lower monthly payments, but they usually mean higher overall costs of borrowing.
- Does the customer understand that if the vehicle is stolen or destroyed and there is negative equity involved, their insurance company will reimburse the vehicle's value (not necessarily what is owed on the purchase loan)?

THE MVDA also stipulates “Advisory Statements” that are required to disclose very clearly to the customer such matters as “Sales Final,” “As Is,” OMVIC, the Compensation Fund, CAMVAP and SSCs.

Failing to conduct business with honesty and integrity or committing an unfair business practice by making a false, misleading, deceptive or unconscionable representation can result in a discipline hearing, charges and/or the issuance of a Proposal to Revoke Registration.



2.12

Summary and Sample Contract

The MVDA sets out specific details that must be clearly, comprehensibly and prominently included in lease contracts and in contracts for the sale of new and used vehicles. In some cases, failure to follow these requirements may lead to a customer having the legal right to cancel a contract.

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UCDA USED VEHICLE BILL OF SALE

PURCHASER'S INFORMATION				VEHICLE INFORMATION			
PURCHASER'S NAME: FIRST MIDDLE INITIAL LAST				YEAR MAKE MODEL TRIM LEVEL COLOUR STOCK #			
PURCHASER'S ADDRESS				VIN #			
CITY/TOWN PROVINCE POSTAL CODE				DISTANCE TRAVELLED <input type="checkbox"/> KMS <input type="checkbox"/> MILES <input type="checkbox"/> DISTANCE UNKNOWN (if unknown check one of the following)			
HOME TELEPHONE NO. BUSINESS TELEPHONE NO.				<input type="checkbox"/> Vehicle has travelled: _____ as of _____ <input type="checkbox"/> True distance travelled believed to be higher. <input type="checkbox"/> Actual distance travelled may be substantially higher than odometer reading.			
DRIVER'S LICENCE NO. EXPIRY DATE				MST'S WARRANTY IN SERVICE DATE DELIVERY DATE			
E-MAIL ADDRESS				THE VEHICLE WILL BE DELIVERED WITH A SAFETY STANDARDS CERTIFICATE <input type="checkbox"/> YES <input type="checkbox"/> NO DAILY RENTAL <input type="checkbox"/> MTO BRAND <input type="checkbox"/>			
INSURANCE INFORMATION				DEALER GUARANTEE			
NAME OF INSURANCE COMPANY POLICY NO. EXPIRY DATE				IS THERE A DEALER GUARANTEE ON THIS VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO			
INSURANCE AGENT'S PHONE NO.				IF YES, COMPLETE THIS SECTION: DAYS OR (WHICHEVER COMES FIRST) KMS EXTENDED WARRANTY			
VEHICLE TO BE TRADED-IN				TERMS OF SETTLEMENT			
YEAR MAKE MODEL TRIM LEVEL COLOUR				SELLING PRICE			
VIN #				EXTENDED WARRANTY			
EXACT DISTANCE THAT THE VEHICLE HAS TRAVELLED <input type="checkbox"/> KMS <input type="checkbox"/> MILES				DESCRIPTION			
H.S.T. REGISTRANT / REGISTRATION NO. IS THERE A LIEN AGAINST THIS VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO				IS THERE AN EXTENDED WARRANTY ON THIS VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO			
LIEN HOLDER AMOUNT \$				RETAIL VALUE IF INCLUDED IN VEHICLE TRADING PRICE \$			
COMMENTS				COMPANY MONTHS (OR (WHICHEVER COMES FIRST) KMS			
Identify any items, inducements or specific repairs included in the sale price and indicate retail value of items or inducements				DESCRIPTION			
TERMS OF FINANCING				SUB-TOTAL			
CUSTOMER HAS RECEIVED A DISCLOSURE STATEMENT FROM THE LENDING INSTITUTION. WILL THE DEALER OR SALESPERSON RECEIVE ANY INCENTIVE FOR THE FINANCING OF THIS VEHICLE? <input type="checkbox"/> YES <input type="checkbox"/> NO				DEPOSIT TRADE-IN ALLOWANCE (if any)			
MANUFACTURER PARTICIPATES IN CANADIAN MOTOR VEHICLE ARBITRATION PLAN (CAMVAP) CAMVAP STATEMENT ON REVERSE OF ALL NEW VEHICLES <input type="checkbox"/> YES <input type="checkbox"/> NO				NET DIFFERENCE			
PRIVATE STATEMENT				NET REGISTRANTS ONLY			
By signing this contract you consent to the dealer contacting you in the future and to the sharing of information with associated businesses so that they may provide you with timely information about their services. You may withdraw your consent in writing at any time.				H.S.T. ON SUB-TOTAL			
SALESPERSON SIGNATURE				H.S.T. ON NET DIFFERENCE			
SALESPERSON'S NAME (PLEASE PRINT) REGISTRATION NO.				LICENCE FEE			
SALESPERSON'S SIGNATURE				GASOLINE			
DEALER REGISTRATION No. NAME OF OFFICIAL (PLEASE PRINT)				PAYMENT LIEN ON TRADE-IN			
ACCEPTOR'S REGISTRATION No. TITLE				NET REGISTRANTS ONLY DEPOSIT			
DATE ACCEPTOR'S SIGNATURE				H.S.T. PAYABLE ON TRADE-IN			
THIS OFFER IS NOT BINDING UNLESS ACCEPTED BY VENDOR				SUB-TOTAL			
© UCDA Used Car Dealers Association Of Ontario 2010 32590/40297 WHITE - DEALER CANARY - CUSTOMER PINK - SALESPERSON				DEPOSIT: <input type="checkbox"/> CASH <input type="checkbox"/> CREDIT CARD			
				PAYABLE ON DELIVERY (CERTIFIED FUNDS ONLY)			
				INSURANCE: <input type="checkbox"/> LIFE <input type="checkbox"/> LOSS OF INC. <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER			
				R.S.T. ON INSURANCE			
				LIEN REGISTRATION FEE			
				BALANCE FINANCED SUBJECT TO APPROVAL			
				NET AMOUNT TO BE FINANCED			
				COST OF BORROWING %			
				TOTAL BALANCE DUE \$			
				SALES FINAL Please review the entire contract, including all attached statements, before signing. This contract is final and binding once you have signed it, unless the motor vehicle dealer has failed to comply with certain legal obligations.			
				YOU ACKNOWLEDGE HAVING READ ALL THE TERMS OF THE CONTRACT, INCLUDING THOSE ON THE REVERSE AND ON ATTACHED PAGES. YOU UNDERSTAND THESE TERMS MAKE UP THE ENTIRE CONTRACT.			
				Purchaser's Signature			
				Co-Signer's Name (Print)			
				Co-Signer's Signature			

New dealers do not have to create contracts from a blank piece of paper; a number of associations and businesses sell contracts (paper and electronic) to dealers. These are sample contracts from UCDA. Contract page 1 – Courtesy UCDA

Finally, all contracts must be signed and a copy given immediately to the purchaser. According to Section 38 of the Regulations, **if there is no signed contract and a deposit or trade-in is given to the dealer, the purchaser can cancel the contract at any time and demand his/her deposit or trade-in back.**

IMPORTANT INFORMATION RESPECTING MOTOR VEHICLE SALES

In case of any concerns with this sale, you should first contact your motor vehicle dealer. If concerns persist, you may contact the Ontario Motor Vehicle Industry Council as the administrative authority designated for administering the Motor Vehicle Dealers Act, 2002.

You may be eligible for compensation from the Motor Vehicle Dealers Compensation Fund, if you suffer a financial loss from this trade and if your dealer is unable or unwilling to make good on the loss.

You may have additional rights at law. Contact  **Ontario Motor Vehicle Industry Council**  **Canadian Motor Vehicle Industry Council**
789 Don Mills Road, Suite 800, Toronto, ON M3C 1T5
Call: 416-226-4500 or 1-800-943-6002 or go to www.omvic.on.ca

SAFETY STANDARDS CERTIFICATE

A safety standards certificate is only an indication that the motor vehicle met certain basic standards of vehicle safety on the date of inspection.

TERMS AND CONDITIONS

- TRADE-IN VEHICLE:** Any vehicle you trade-in shall be equipped and in the same condition, other than reasonable wear and tear, at the time of delivery to the dealer, as it was at the date of this agreement. You agree to be responsible for any repairs or maintenance needed to maintain this condition until the delivery date. If the trade-in vehicle has been damaged between the date of this agreement and the delivery date, or is in need of repair, the dealer may cancel this agreement and deduct any damages from the deposit or, if you agree, may reduce the amount of the trade-in allowance to compensate for the repairs needed. You also agree that you will be liable to compensate the dealer for any loss suffered because of any misrepresentation about the declared distance travelled, the declared prior use, or the condition of the vehicle traded-in.
- TAXES AND FINANCING:** You agree to pay the dealer an amount equal to any increase in taxes payable relating to the purchase of the vehicle, between the date of this agreement and delivery of the vehicle to you. Should the amount of tax payable be reduced, the dealer agrees to deduct this amount from the total amount owed by you.

You agree that you will be responsible for any damages suffered by the dealer if a financing contract cannot be arranged because of any default or misrepresentation by you.
- LEGAL OWNERSHIP AND PURCHASER'S OBLIGATIONS:** Legal ownership of the vehicle shall not pass to you until the entire purchase price has been paid in full. You agree that until that time you shall:
 - maintain insurance on the vehicle with the dealer as the named beneficiary in the event of a loss;
 - not sell or transfer the vehicle to anyone else;
 - not allow any lien or other interest to be taken in or against the vehicle;
 - not allow the vehicle to be used in the commission of any illegal act; and
 - reimburse the dealer for any costs the dealer may incur due to your failure to comply with any of (a), (b), (c) or (d) above.
- ACCEPTANCE BY PURCHASER:** If you refuse to take delivery of the vehicle when it is made available to you, or on the delivery date specified in this agreement, the dealer shall notify you by registered mail, sent to your last address known to the dealer, that the vehicle is available for delivery. If you fail to take delivery of the vehicle within seven (7) days of signed receipt of this notice, or if the notice is returned to the dealer undelivered, the dealer may resell the vehicle with no further notice to you.

When the dealer resells the vehicle, you agree to pay the dealer for all losses the dealer incurs. Any deposit or vehicle traded-in may be kept by the dealer to apply against any loss suffered by the dealer. If the loss is greater than the total of the amount paid as a deposit and the value of the trade-in, you agree to pay the difference to the dealer.

The dealer agrees to provide you with a detailed accounting of the resale and a list of expenses incurred. The dealer shall maintain the right to use any legal means available to collect any sum owing by you under this agreement.

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan may be available to resolve disputes concerning alleged manufacturer's defects or implementation of the manufacturer's new motor vehicle warranty.

Only vehicles less than 5 years old that have been driven less than 160,000 Km qualify.

OR

CANADIAN MOTOR VEHICLE ARBITRATION PLAN NOT AVAILABLE

The manufacturer of this vehicle is not a participant in the Canadian Motor Vehicle Arbitration Plan. Therefore, the program under that Plan is not available to resolve disputes concerning alleged manufacturer's defects or implementation of the manufacturer's new motor vehicle warranty.

Currently, BMW, Mitsubishi and most exotic foreign sports car manufacturers, do not participate in CAMVAP. Further information can be found at www.camvap.ca

Contract page 2 – Courtesy UCDA

Test Yourself

REMEMBER:

The questions on the MVDA Key Elements Test are in multiple-choice format only. This manual, however, contains a variety of question formats to help you understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.



The first questions below are the same questions asked in “What Do You Know?” at the beginning of this Chapter. Try answering these questions again and compare your results with your earlier answers.

Then, answer the additional questions.

1. On a purchase contract, what **must** be printed in 14 pt. bold font next to the buyer’s signature?
2. List four items that must be in a contract for the sale of a *new* vehicle.
3. If a dealer does not have a specific new vehicle in stock, but will locate the vehicle and bring it in, what must be disclosed to the purchaser regarding the mileage?
4. List four items (different from those provided in your answer to question 2) that must be included in contracts for the sale of a *used* vehicle.
5. If a Safety Standards Certificate is issued for a vehicle, it means:
 - a) The vehicle is safe and guaranteed free of mechanical defects
 - b) The vehicle met certain basic standards of safety on the date of inspection
 - c) The vehicle is safe and has a 36-day warranty
6. What does the term “as is” mean?
7. Choose the most correct answer. An “as is” sale...
 - a) Is not legal to a “consumer”
 - b) Does not require the buyer to initial the words “as is”
 - c) Must have the buyer write an explanation of “as is”
 - d) Must include a specific definition of “as is” in the contract
8. True or False: A dealer selling a vehicle “as is” may also provide a Safety Standards Certificate for the vehicle.
9. Other than the information that identifies the consignor, dealer and vehicle, list three details that must be included in consignment contracts.
10. Contracts must have advisory or educational statements designed to inform purchasers/lessees about their rights and responsibilities and to ensure they know about the existence of certain agencies or organizations. What are these organizations/agencies?
11. If customers give dealers a deposit but don’t sign a contract, what rights do they have?

Refer to Appendix 1 for the correct answers. Review the relevant section of the chapter for any question you answered incorrectly.

Chapter 3

DISCLOSURE REQUIREMENTS

- | | |
|--|--|
| 3.01 Definition | 3.06 Retail Disclosures |
| 3.02 Learning Objectives | 3.07 Dealer-to-Dealer Wholesale Disclosure |
| 3.03 What Do You Know? | 3.08 \$3,000 Damage Discussion |
| 3.04 Introduction | 3.09 Best Practices to Assist with Disclosures |
| 3.05 Clear, Comprehensible and Prominent | 3.10 Summary |
| | 3.11 Test Yourself |



3.02

Learning Objectives

After completing this chapter, you will understand what vehicle information must be disclosed regarding a vehicle's:

1. Previous use
2. History
3. Quality or condition

3.01

Definition

Disclosure: Revealing, or making known, facts and information

TIMELY DISCLOSURE

of information means the contract (including the information required to be disclosed) must be given to the customer for review before it is signed.

3.03

What Do You Know?

Try answering these questions to test your knowledge:

- 1.** List three “previous uses of a vehicle” dealers must disclose.
- 2.** List three types of *incident* damage that must be disclosed.
- 3.** True or False: Dealer A buys from a daily rental company a car previously used in the rental fleet. Dealer A then sells the car (giving full disclosure of the car’s history as a daily rental) to a consumer who buys it for personal use. A year later, the consumer trades that car in to Dealer B. Dealer B does a history search and sees the car was once a daily rental. Under Regulation 42 of the MVDA, when Dealer B sells this car to another customer, they are not required to inform the customer of the car’s previous use as a daily rental.

Keep these questions in mind as you read through the following section.



3.04

Introduction

As a general rule, customers are entitled to the disclosure of any facts “that could reasonably be expected to influence the decision of a reasonable buyer or lessee to purchase or lease the vehicle on the terms disclosed in the contract.”

The *Motor Vehicle Dealers Act* (MVDA) goes further by setting explicit requirements for dealers to disclose specific information related to a vehicle’s previous use (e.g., a taxi), history (e.g., collision-damaged) and condition (e.g., missing airbags) to any customer.

Providing disclosure verbally does not meet the requirements of the MVDA. Disclosure **MUST** be made in writing (on the contract) in a “*clear, comprehensible and prominent manner*.”

Failure by the dealer to comply with certain disclosure requirements can result in a customer’s immediate right to cancel the contract and return the vehicle.

This chapter is primarily based on the requirements set out in Section 42 of the Regulations under the MVDA.

3.05

Clear, Comprehensible and Prominent

Dealers are required to provide disclosures on contracts and in advertisements that are clear, comprehensible and prominent (CCP); and yet the MVDA doesn't specifically define CCP. The Ontario Motor Vehicle Industry Council (OMVIC) interprets CCP by turning to the *Canadian Oxford Dictionary* and by applying common sense:

Clear – The exact meaning of the statement or message is easily understood; it is not open to interpretation; it is not vague or ambiguous.

Comprehensible – The statement or message is written in language/words and manner that is easily understood; there are no hidden meanings; there is no special knowledge or experience required to understand the message.

Prominent – The statement or message is likely to attract the attention of the viewer/reader/listener; the statement or message is more noticeable (by size or type of font or placement on a page) than other information on/in the same document/page/announcement; it is not hidden or in small print, or written in font that is difficult to read due to size, style, colour, contrast, orientation (e.g., vertical) or placement on a page or document; it is not placed on a webpage that requires the reader to scroll down the page (or side to side) in order to view it.

When trying to interpret CCP, don't overthink it; it really is common sense. If you must ask yourself, "Is this CCP?" it probably isn't.

Remember that a dealer's "audience" (i.e., consumers/customers) does not likely have an in-depth knowledge and understanding of the automotive industry, so it's important to make disclosures in easily understood language and to make all required disclosure statements stand out from the page.

3.06

Retail Disclosures

While the actual required disclosure will vary depending on a vehicle's history and condition, a contract *must* include statements about any of the following conditions:

1. The make, model, trim level and model year of the vehicle
2. If the vehicle has been used as a police vehicle or to provide emergency services
3. If the vehicle has been used as a taxi or limousine
4. If the vehicle has been leased (rented) on a daily basis and has not been subsequently owned by someone other than a dealer

5. If any collision or incident damage to the vehicle was greater than \$3,000 (and the total cost of repair if known by the dealer)
6. If the vehicle has been classified under the *Highway Traffic Act* as irreparable, salvage or rebuilt, and the most recent classification
7. If the vehicle was declared a total loss by an insurer, regardless of classification under the *Highway Traffic Act* as irreparable or salvage
8. If the vehicle has two or more adjacent panels that are not bumper panels that have been replaced
9. If the manufacturer's warranty on the vehicle has been cancelled
10. If the vehicle has sustained any damage caused by fire
11. If the vehicle has sustained any damage caused by immersion in liquid that has penetrated to the level of at least the interior floor boards
12. If there has been structural damage or the vehicle has had repairs, replacements or alterations to the structure of the vehicle
13. If the vehicle has an anti-lock braking system that is not operational
14. If any of the vehicle's airbags are missing or not operational
15. If the vehicle requires repair to any of its:
 - a) Engine, transmission or power train
 - b) Subframe or suspension
 - c) Computer equipment
 - d) Electrical system
 - e) Fuel operation system
 - f) Air conditioning
16. If the contract is for the sale or lease of a new specifically identified motor vehicle (e.g., VIN is known, in stock, etc.), the maximum distance that will be shown on the odometer at time of delivery
17. If the contract does not specifically identify a new vehicle (e.g., a vehicle that must be located, VIN unknown), the maximum distance that will be shown on the odometer at the time of delivery or a statement initialled by the buyer that there is no maximum
18. If the contract is for the sale or lease of a used vehicle:
 - a) The total distance driven
 - b) If the dealer cannot determine the total distance the vehicle has been driven, but can determine a distance the vehicle has been driven as of some past date, that distance and date, together with a statement that "the total distance the vehicle has been driven is believed to be higher"
 - c) If the dealer is unable to make any type of determination as to total distance driven or as to distance driven from a past date, that "the total distance driven is unknown and may be substantially higher than the reading shown on the odometer"
19. If the vehicle's odometer is broken or faulty, has been replaced or rolled back, or is in miles

20. If the vehicle is materially different from its original or advertised production specifications
21. If the badge or any other indication on the vehicle relates to a different vehicle model
22. If the vehicle was previously registered in a jurisdiction other than Ontario, and if so, a statement indicating which jurisdictions. This requirement does not apply if the vehicle has since been registered in Ontario for more than seven years.
23. If the vehicle was recovered subsequent to being reported stolen
24. A statement of any other facts that could be expected to influence the decision of a reasonable buyer or lessee to purchase or lease the vehicle on the terms disclosed in the contract

3.07

Dealer-to-Dealer Wholesale Disclosure

The MVDA has sweeping requirements for the type of information dealers must disclose to their customers. If dealers are to provide that information, they'll have to collect it and share it as well. So when dealers take a vehicle in on trade, there are specific details to collect and record, and when dealers sell or lease a vehicle to another dealer, or offer a vehicle at auction, the Code of Ethics Regulations (Ontario Regulation 332/08) of the MVDA specifies exactly what the selling/leasing dealer is obligated to disclose.

3.08

\$3,000 Damage Discussion



Regulation 42 requires dealers to disclose, in writing on the bill of sale, any collision or incident damage to a vehicle greater than \$3,000. If the cost of the repair is known, it must also be disclosed. Often this information is available in vehicle history reports. Dealers should not attempt to circumvent this requirement by relying on vehicle history reports that do not provide this information. OMVIC strongly suggests dealers comparison shop and educate themselves on the strengths

and weaknesses of the various vehicle history products. Using a thorough report AND adequately inspecting vehicles are key steps to help ensure dealers are in compliance with this part of the MVDA.

Note: collision repairs amounting to less than \$3,000 could still be considered material facts and therefore require disclosure.

When the Cost of Repair Is Different from the Repair Estimate

If the cost of the repairing collision or incident damage is less than the estimated cost, the repair cost AND the repair estimate must both be disclosed per an OMVIC Discipline Committee Ruling, upheld by an Appeal Committee decision.

3.09

Best Practices to Assist with Disclosures

Disclosing Total Distance Driven

Many used vehicles are driven significant kilometers while in inventory. So when completing a contract for the sale of a used vehicle OMVIC recommends dealers implement a process that ensures the mileage disclosed on the contract is verified by having the salesperson visually check the vehicle's odometer reading at the time of sale. Relying on the mileage recorded in the vehicle file (e.g. reported at the time of trade-in) could result in improper disclosure of the true distance driven. Remember, if the mileage provided on the bill of sale is inaccurate (off by the lesser of five percent or 1,000 kms), it triggers a customer's right to rescind the contract within 90 days of delivery.

Disclosing Needed Repairs and Related Material Fact

Complaints about vehicle condition are the most common OMVIC receives from consumers; to help ensure proper disclosures are provided, particularly as they relate to required repairs and material facts, dealers should implement a thorough vehicle inspection process; make a detailed record of any and all work done to the vehicle; disclose all repairs and inspection results to a buyer; and, ensure vehicles sold are of merchantable quality and fit for purpose as required by the *Sale of Goods Act*.

3.10

Summary



Retail Disclosure

The MVDA sets out specific information related to a vehicle's previous use, history and condition. Just as a dealer would want these facts when purchasing a vehicle or accepting it in trade, the MVDA requires dealers provide this information to customers. These disclosures must be clearly, comprehensibly and prominently written on the contract and be presented in a timely manner so the customer can review them before signing the contract. There are sophisticated vehicle history reports available to all consumers, so it is in a dealer's best interest to know the history of the vehicles they offer for sale or lease and make proper disclosure to any customer.

Wholesale Disclosure

Dealers must disclose the exact same information about a vehicle's past-use, history and condition to another dealer that they would to a retail customer with the exception of needed repairs to major components.

Important Note: dealers must disclose to another dealer any fact about the vehicle that affects structural or mechanical quality or performance of the vehicle that, if disclosed, could reasonably be expected to influence the decision to purchase the vehicle.

REMEMBER:

The questions on the MVDA Key Elements are in multiple-choice format only. This manual, however, contains a variety of question formats to help you understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.

Refer to Appendix 1 for the correct answers. Review the relevant section of the chapter for any question you answered incorrectly.

3.11

Test Yourself



The first questions below are the same questions asked in “What Do You Know?” at the beginning of this chapter. Try answering these questions again and compare your results with your earlier answers.

Then, answer the additional questions.

- 1.** List three “previous uses of a vehicle” dealers must disclose.
- 2.** List three types of incident damage that must be disclosed.
- 3.** True or False: Dealer A buys from a daily rental company a car previously used in the rental fleet. Dealer A then sells the car (giving full disclosure of the car’s history as a daily rental) to a consumer who buys it for personal use. A year later, the consumer trades that car in to Dealer B. Dealer B does a history search and sees the car was once a daily rental. Under Regulation 42 of the MVDA, when Dealer B sells this car to another customer they are not required to inform the customer of the car’s previous use as a daily rental.
- 4.** True or False: If a vehicle was declared a total loss in a collision, but has since been repaired and received a structural safety certificate and a Safety Standards Certificate (SSC) from an authorized repair centre, the dealer does not need to notify a purchaser of the previous damage.
- 5.** Which of the following must be disclosed?
 - a) The replacement of any single body panel (excluding bumper covers)
 - b) The replacement of two or more adjacent body panels (excluding bumper covers)
 - c) The repainting of two or more adjacent body panels (excluding bumper covers)

6. Dealers must disclose known damage repairs in excess of:
 - a) \$2,000
 - b) \$3,000
 - c) \$5,000
 - d) \$10,000
7. True or False: A dealer does not have to inform a purchaser that a vehicle's manufacturer's warranty has been cancelled, so long as the dealer offers or sells the purchaser an extended warranty.
8. True or False: If a dealer knows the odometer of a vehicle is inaccurate, and cannot provide any indication of what the true mileage might be, they must write on the contract "TMU" (which stands for "true mileage unknown").
9. Which of the following must be disclosed (select all that apply)?
 - a) A vehicle was previously registered, in another province, state or country.
 - b) A vehicle's anti-lock braking system is not functioning.
 - c) A vehicle's airbags are missing.
 - d) A vehicle's air conditioning system requires repair.
 - e) All of the above.
10. Disclosure must be provided in a timely manner, in writing, and be presented in a way that is:
 - a) Easy, precise and fair
 - b) Clear, comprehensible and prominent
 - c) Apparent, logical and friendly
11. Give two examples of steps dealers can take to ensure they know the history of vehicles they buy or accept in trade.
12. Check any statement that is correct:
A contract for sale or lease of a vehicle between dealers:
 - a) Must disclose specific information to comply with the Code of Ethics Regulations
 - b) Must disclose exactly the same information required in the sale of a vehicle to a purchaser who is a consumer
 - c) Must disclose a statement as to whether CAMVAP is available
 - d) Is subject to the provisions of the *Consumer Protection Act*

Chapter 4

DISCLOSURE IN ADVERTISING

- | | |
|---------------------------------------|---|
| 4.01 Learning Objectives | 4.10 Lease Advertising |
| 4.02 What Do You Know? | 4.11 Advertising as Manufacturer's Suggested Retail Price (MSRP) |
| 4.03 Introduction | 4.12 The Code of Ethics and Standards of Business Practice on Advertising |
| 4.04 What is an Advertisement? | 4.13 Using Stock Photographs in Advertisements |
| 4.05 Disclosure in Dealer Advertising | 4.14 Summary and Sample Ad |
| 4.06 "All-In Price" Advertising | 4.15 Test Yourself |
| 4.07 Advertising "As Is" Vehicles | |
| 4.08 Advertising Unfit Vehicles | |
| 4.09 Advertising Cost of Credit | |



4.01

Learning Objectives

After completing this chapter, you will be able to:

1. Identify the information and disclosure required in dealer advertising
2. Understand the possible penalties for breaching these advertising requirements

4.02

What Do You Know?

Try answering these questions to test your knowledge:

- 1.** If a dealer's advertisement contains a price for a vehicle, that price **must** include:
 - a) Administration fees
 - b) Taxes (unless ad states in a clear, comprehensible and prominent manner that taxes are included)
 - c) Freight and pre-delivery inspection (PDI)
 - d) "Other" mandatory fees such as documentation fees, window-etching fees, SSC fees, etc.
 - e) All of the above
- 2.** True or False: If an advertisement is for a vehicle that was previously used as a police vehicle, that information must be prominently displayed in the advertisement.
- 3.** True or False: If an advertisement is for a vehicle of the current model year, but the vehicle is used, the advertisement must clearly state the vehicle is used.

Keep these questions in mind as you read through the following section.



4.03

Introduction

The *Motor Vehicle Dealers Act* (MVDA), *Consumer Protection Act* (CPA) and Code of Ethics (including the Standards of Business Practice) clearly specify the information dealers must disclose in advertisements for vehicles offered for sale or lease. The MVDA also requires dealers provide "all-in pricing" in their advertisements (if a price is listed).

If a dealer's advertisement includes a price for a vehicle, that vehicle must be available for sale. If advertising for a limited supply of "certain vehicles," the advertisement must indicate the number of vehicles available at that price.

Should the Ontario Motor Vehicle Industry Council (OMVIC) reasonably believe a dealer's published material or advertisement to be false, misleading or deceptive, it can order the dealer to cease the use of the material and/or order the dealer to retract the statement or publish a correction of equal prominence in the original publication. The Registrar's order may be appealed to the Licence Appeal Tribunal (LAT), but takes effect immediately.

Dealers who breach the advertising regulations can face charges, a discipline proceeding and/or a proposal to revoke or suspend registration. The Registrar may also require the dealer to submit all advertising to the Registrar for pre-approval for a period of up to two years.

ADVERTISING DISCLOSURE

requirements help create a fair and open marketplace for dealers, and eliminate confusion for consumers.

This chapter is primarily based on the requirements set out in Section 36 of the Regulations under the MVDA.

4.04

What is an Advertisement?

An advertisement is any inducement to buy or lease and includes:

- Newspaper ads
- Magazine/publication ads
- Website ads
- Social media ads
- Radio/TV ads
- Billboards
- Signs (including those displayed in or on a vehicle)
- Information printed on the vehicle itself



Note: This is not an exhaustive list; these examples are illustrative and meant to assist learning. Any other type of advertising must meet the same legal requirements.

To assist with compliance, OMVIC makes available free downloadable signs on its website. These signs are for use on vehicles and contain all required disclosure statements. To download, visit www.omvic.on.ca.

4.05

Disclosure in Dealer Advertising

Advertisements must include the registered name and phone number of the selling dealer in a clear, comprehensible and prominent manner. Where there are space or time limitations (e.g., a billboard or radio/TV ad), the ad must, at a minimum, state that it has been placed by a registered dealer.

An advertisement must indicate in a clear, comprehensible and prominent manner if the vehicle:

- Was previously a daily rental (unless subsequently owned by a non-dealer).
- Was previously a police vehicle or emergency services vehicle.
- Was previously a taxi or limousine.
- Is a used car of the current model year or the immediate previous model year. This is meant to ensure consumers can tell if an advertised vehicle is new or used. *Note: as demonstrators are used vehicles they must not be listed on a dealer's website (or elsewhere) under a tab or link for new vehicles. Instead, they should be listed with other used vehicles or under a separate tab/link for demonstrators.*

Vehicle advertisements that state the inclusion of an extended warranty must clearly, comprehensibly and prominently include the term of the warranty and maximum claim limits, if any.



Note: Advertisements that indicate an extended warranty is included with a vehicle must clearly indicate the term of the warranty and any claim limits. This advertisement indicates the term is for the “lifetime” of the vehicle, but does not provide any claim limits. In this instance, a customer may assume there are NO claim limits. If, in fact, the warranty has claim limits, the advertisement is NOT compliant.

4.06

“All-In Price” Advertising

If a dealer’s ad includes a price for a vehicle, that price must include **all** charges related to the sale of the vehicle. This includes freight and inspection charges, administration fees, other fees, charges, levies and taxes. Dealers don’t have to include HST and licensing in the advertised price, as long as the ad indicates in a clear, comprehensible and prominent (CCP) manner that HST and licensing are not included in the price.

Note: The following are more detailed explanations and examples of OMVIC’s expectations for meeting certain requirements set out in Section 36 of the General Regulations under the MVDA including “all-in pricing.”

Where there is a requirement for information/disclosure to be set out in a CCP manner, OMVIC will consider the size and proximity of this disclosure relative to the advertised price.

Section 36(7) states,

“If an advertisement indicates the price of a motor vehicle, the price shall be set out in a clear, comprehensible and prominent manner and shall be set out as the total of,

- a) The amount the buyer would be required to pay for the vehicle; and**
- b) Subject to subsections (9) and (10), for all other charges related to the trade in the vehicle, including, if any, charges for freight, charges for inspection before delivery of the vehicle, fees, levies and taxes.”**

“All other charges” includes any charge treated as mandatory by the dealer. A charge is deemed to be mandatory if:

- The customer is not given an *express opportunity* to decline the charge during the negotiation process; or
- It pertains to features or additions referred to in the advertisement or during negotiations (unless they are described as optional extras in the advertisement or during negotiations).

For instance, if a customer is expected to pay an administration fee, documentation fee, fee for a Safety Standards Certificate (SSC) or for a window-etching product, those amounts must be included in the all-in price. (These are examples only and are not intended to be a complete list of all fees.)

Section 36(8) states,

“If an advertisement that indicates a price for a motor vehicle is placed jointly by two or more registered motor vehicle dealers, the advertisement shall state that the price for the vehicle in an actual trade may be less than the price set out in the advertisement.”

If the ad is placed by more than one dealer, words such as “Dealer may sell for less” must be used.

Section 36(9) states,

“Subject to subsection (10), if an advertisement that indicates a price for a motor vehicle is placed jointly by two or more registered motor vehicle dealers and if an amount of a charge mentioned in clause (7)(b) varies as between the dealers, the advertisement shall indicate, in a clear, comprehensible and prominent manner,

- a) That a buyer of the vehicle may be requested to pay that amount in addition to the price indicated in the advertisement; and**
- b) What the charge is for.”**

If the ad has been placed by two or more dealers, and there is a fee that varies from one dealer to another, that fee may be excluded from the all-in price, but the amount of the fee must be disclosed in the ad, along with a description of what the fee is for, in a CCP manner. For instance, “The above price does not include administration fees, which vary from \$199 to \$499, depending on the dealer.”

Section 36(10) states,

“Clause 7(b) and subsection (9) do not apply to amounts under the *Retail Sales Tax Act* or to the federal goods and services tax if the advertisement indicates in a clear, comprehensible and prominent manner that those amounts are not included in the price indicated in the advertisement.”

Section 36(10) allows dealers to exclude HST from the advertised price as long as this fact is disclosed in a CCP manner in the advertisement.

Section 36(11) states,

“If an advertisement that indicates a price for a motor vehicle is placed jointly by two or more registered motor vehicle dealers, each of the dealers shall ensure that the advertisement complies with subsection (7), (8), (9) and (10).”

Section 36(11) requires **each** dealer involved in placing an advertisement ensures it complies with the MVDA.



4.07

Advertising “As Is” Vehicles

If an ad includes a price for a vehicle being sold “as is,” the ad must include in a clear, comprehensible and prominent manner the following statement:

“This vehicle is being sold “as is,” unfit, not e-tested and is not represented as being in road-worthy condition, mechanically sound or maintained at any guaranteed level of quality. The vehicle may not be fit for use as a means of transportation and may require substantial repairs at the purchaser’s expense. It may not be possible to register the vehicle to be driven in its current condition.”



It is NOT sufficient to simply state the vehicle is being sold “as is.”

4.08

Advertising Unfit Vehicles

If an ad includes a price for a vehicle that is not certified and/or e-tested, the ad must state in a clear, comprehensible and prominent manner:

“This vehicle is not driveable, not certified and not e-tested. Certification and e-testing are available for \$XXX.”

Note: If a dealer intends to offer certification and e-testing, the fee **MUST** be disclosed in the above statement. Certification and e-testing **CANNOT** be mandatory charges. Vehicles advertised unfit may not be sold at or above the advertised price using the “as is” clause on the bill of sale.

4.09

Advertising Cost of Credit

CPA Section 61 sets out the disclosure required in advertising credit agreements.

When the advertisement offers financing to purchase a vehicle and discloses the interest rate or the amount of the payment by the borrower, the following must also be disclosed:

1. Annual percentage rate (must be displayed as prominently as the most prominent of the interest rate or monthly payments)
2. Length of the term
3. Cash price of the vehicle (if applicable) and the “cost of borrowing,” unless:
 - a) The only element of cost of borrowing is interest
 - b) The advertisement is broadcast on radio or television, displayed on a billboard or bus board, or made through any other medium with similar time or space limitations

4.10

Lease Advertising

The CPA also sets out the requirements for advertising a lease. Lease ads must disclose:

1. The ad is for a lease
2. The term of the lease
3. The payment
4. The annual percentage rate (APR)
5. The amount of upfront payment required
6. For leases with kilometre allowances less than 20K/year, the excess kilometre cost (e.g., 18,000 km/year, \$0.20/km for excess)

Note: Broadcast advertisements, or those with space/time constraints, may direct consumers to a phone number or publication to obtain term and APR information.

4.11

Advertising as Manufacturer's Suggested Retail Price (MSRP)

The guidance provided in the Standards of Business Practice (see 4.12(27)) stipulates that “savings amounts” shown in new vehicle advertisements are to be based on a vehicle’s average selling price, not the Manufacturer’s Suggested Retail Price (MSRP). But what if no savings amount is referenced in an advertisement that includes an MSRP? For example:



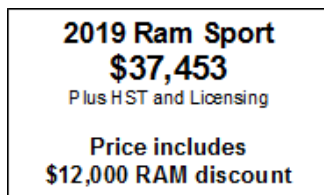
As there is no savings amount stated or claimed in the example ad for the NEW Tahoe, there is no breach of the Standards or Code of Ethics. In other words, the example is acceptable as the advertisement did not claim a savings amount: i.e. the ad did not state “save \$4,925”, or similar language.

Given today’s DMS systems that generate individual MSRP’s for each vehicle based on its specific options, OMVIC believes this interpretation makes advertising simpler for new vehicle dealers and helps create a level playing field, without affecting consumer protection.

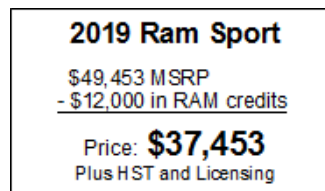
Advertising M.S.R.P. and Manufacturer Credits/Discounts

Consumers are bombarded by manufacturer advertising that often promotes credits or discounts. Dealers are prohibited from implying that a manufacturer credit/discount is their own.


For example, if RAM is offering a \$12,000 discount on all pickup trucks and a dealer wants to advertise a new Ram Sport with an MSRP of \$49,453 (inclusive of all charges), in order to comply, the dealer should advertise:



OR



If the dealer wants to include an additional discount, it can be itemized separately. For example:

2019 Ram Sport \$35,953 Plus HST and Licensing Price includes \$12,000 RAM credits and \$1,500 additional dealer discount	OR 	2019 Ram Sport \$49,453 MSRP - \$12,000 in RAM credits - \$ 1,500 dealer discount <hr/> Price: \$35,953 Plus HST and Licensing
---	--	---

It is important that a dealer's advertised price that includes a manufacturer's credit or discount make it clear the credit/discount has been applied to the advertised price. If a dealer fails to do this, consumers could be misled and anticipate the manufacturer's discount will be applied to the dealer's advertised price. These are three examples of non-compliant ads:

MSRP: \$49,453 ON SALE FOR: \$35,953 Plus HST and Licensing	MSRP: \$49,453 Price: \$35,953 Plus HST and Licensing SAVINGS: \$12,000	MSRP: \$49,453 Price: \$35,953 Plus HST and Licensing
---	---	---

Note: these examples do not constitute an exhaustive list of non-compliant advertising representations.

Used Vehicles and MSRPs

Comparisons to MSRP are prohibited when advertising a used vehicle.

Advertising MSRPs – Conclusion

Dealers may advertise a vehicle's MSRP and their all-in selling price. If the ad also references a savings amount, then the average selling price must also be included.

Dealers can include manufacturer discounts/credits in advertised prices IF the ad clearly and prominently indicates the credits/discounts have been applied. Additional dealer discounts can be itemized separately.

Dealer advertised prices must include all fees and charges the dealer intends to collect. Note: HST and licensing can be excluded if the advertisement clearly indicates they are excluded.

For example: \$33,453 + HST and licensing.

4.12

The Code of Ethics and Standards of Business Practice on Advertising

The MVDA Code of Ethics also speaks to dealer advertising and marketing. It requires dealers and salespeople to be “clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which the registrant trades and in explaining the products, services, programs and prices connected with those vehicles” and to “ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful” Further, the Code of Ethics states registrants “shall not engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming of a registrant.” These are often the Code of Ethics sections relied upon when dealers are disciplined due to non-compliant advertising.

To help dealers and salespeople understand and interpret the Code of Ethics, OMVIC developed the Standards of Business Practice (SBP). The SBP sets out guidelines and examples dealers/salespeople must meet or exceed.

Standards of Business Practice

Before entering into a contract for a trade-in for a motor vehicle, with a customer who is not a registered dealer, a dealer shall explain to the customer the terms of the contract between the customer and the dealer, including the financial and other obligations, if any, of the customer under the contract.

EXAMPLES

1. Any information required by these SBP to be disclosed is sufficiently clear and prominent so that, in the consideration of the Registrar, it can be easily noticed and understood by a consumer. Disclosure is in a form appropriate to the advertising medium. The Registrar will consider factors that include:
 - Size of print
 - Clarity/legibility of font
 - Location of the disclosed information in the advertisement
 - Prominence of the disclosed information compared to other information in the advertisement
 - In a broadcast advertisement, the length of time that the message appears or is presented

2. In addition to example 1, all disclosure in advertisements appearing in newspapers, periodicals and other publications is printed in a minimum size and font that is the same as that normally used in classified advertising by the publication where the advertisement appears.
3. Where disclosure of leasing or financial information is required by these SBP and applies to a broadcast advertisement, the advertisement includes, as an alternative to the requirements in examples 1 and 2, one of the following messages:
 - A telephone number and a statement that the number may be called to obtain pre-recorded disclosure of the information; for example, “Call [telephone number] for full financing information.” The required information must be available on a pre-recorded message and may be followed by an option connecting the caller to a live operator.
 - A pre-recorded message is not required if the broadcast advertisement discloses the down payment, the periodic payment, the period of the payment, the term, the annual finance or lease rate and, in the case of a lease, the maximum allowable kilometres over the term of the lease and the lease end obligations. The above will be based on the all-in price required by Section 36 of the General Regulations.
 - A statement that full disclosure can be obtained in a concurrent newspaper advertisement; for example, “See our ad in your local newspaper for full financing information.” The newspaper must be locally available in the market area of the advertiser.
4. The message in example 3 is sufficiently clear and prominent so that in the consideration of the Registrar, it can be easily noticed and understood by a consumer.
5. Advertisements by or on behalf of a dealer disclose the dealer’s status in one of two ways:
 - With a trade style name provided to the Registrar. This can be the dealer’s registered name.
 - By including the word “Dealer” in the advertisement.
6. Advertisements do not indicate or imply that consumers may purchase or lease a car from an unregistered salesperson; for example, “No Salespeople.”
7. Advertising of specific vehicles do not indicate or imply, through words, phrases or style, that it is not presented for commercial purposes; for example, “Public Service Announcement.”

8. Advertisements do not contain statements that, in the consideration of the Registrar, are ambiguous, misleading or deceptive due to unclear, unverifiable or inaccurate information.
9. Advertisements do not refer to an award unless its source and date is disclosed. Advertisements do not refer to an award when it was purchased by the Registrant and is not based on any verifiable test or research. This does not refer to celebrity endorsements.
10. Advertisements do not indicate or imply that vehicles are being offered out of the ordinary course of business unless full disclosure of the situation is made. Examples of prohibited terms include:
 - Going out of business, closing
 - Bankrupt, in receivership, liquidation
 - Lease expired, moving
 - Fleet sale
 - Repossessed motor vehicles
11. “Wholesale” is not used to describe any transaction other than one between motor vehicle dealers.
12. If a dealer’s registered or trade style name includes “liquidation” or “wholesale,” all advertisements for vehicles offered for retail sale or lease include the word “retail.”
13. Advertisements do not indicate or imply that vehicles are offered for retail sale or lease without economic advantage to the Registrant. Examples of prohibited terms include:
 - Dealer cost
 - Factory price, invoice price, under/over invoice price
14. Advertisements for specific vehicles that are of the current model year or the previous model year disclose whether the vehicle is new or used. Advertisements of used vehicles must include one of the terms “used,” “pre-owned” or “previously driven,” or another term that is accurate and discloses that the vehicle is not new.
15. Advertisements of a specific used vehicle disclose all known material facts about the prior regular use of the vehicle, including if it was:
 - Leased on a daily basis, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer under the MVDA
 - A police cruiser or used to provide emergency services
 - A taxi vehicle or limousine

16. The advertised vehicle is to be:
 - At the advertised location or available at the advertised location;
 - In condition to be shown;
 - Willingly shown to a consumer;
 - Willingly shown under the same terms as advertised; and
 - Sold on the same terms as advertised; or
 - If not available from the dealer's on-site inventory, disclosed as available by factory order or dealer trade.
17. A vehicle or class of vehicles is not advertised at a specific price or other incentive unless the Registrant is able to supply a quantity of those vehicles that, in the consideration of the Registrar, is reasonable considering factors that include the size of the dealership and the target area of the advertisement.
18. Advertisements do not misrepresent the opportunity to purchase a vehicle. If the available supply of vehicles is unusually limited, the nature of the limit, such as the number available or the time they are available, must be disclosed. If a factory order or acquisition from another dealer is, or may be, required, this must be disclosed.
19. Registrants do not use phrases such as "supply limited" and "limited time only" if they are misleading considering factors including the number of vehicles available to the Registrant, and the Registrant's target area.
20. Illustrations of vehicles offered for sale will be reasonable representations of the vehicle(s) if an exact illustration is not available.
21. Advertisements do not encourage a breach of contract; for example, "We will beat your best deal."
22. Advertisements using the word "free" clearly indicate that the item is free only with purchase at the advertised price.
23. Advertisements do not guarantee a minimum trade-in allowance; for example, "Push, Pull, Drag your trade in for \$2,000 guaranteed."
24. Advertisements do not offer an extended warranty included with purchase unless the following information is declared in a CCP manner: term and the maximum individual claim limits, if applicable.
25. Words or phrases that indicate or imply that a warranty covers all of a vehicle, or lasts for an unlimited time, or both, are not used unless the warranty is without such exclusions. Prohibited terms include:
 - Bumper-to-bumper
 - Inclusive/all-inclusive
 - Total

26. All disclosure in advertisements appearing in newspapers, periodicals and other publications is printed in a minimum size and font that is the same as that normally used in classified advertising by the publication where the advertisement appears.
27. Savings amounts shown in new vehicle advertising are based on a vehicle's average selling price, not the manufacturer's suggested retail price (MSRP) The Registrant is able and willing to support the average selling price. For example:
 - MSRP \$20,000
 - Average Selling Price \$19,000
 - Sale Price \$18,500
 - Savings \$500
28. Advertisements that offer no interest period state the period of time that the offer applies and disclose whether:
 - The transaction is without any interest during the advertised period; or
 - Interest accumulates during the advertised period but will be forgiven under certain conditions.
29. If interest accumulates during the period but may be forgiven, the advertisement discloses:
 - The conditions for interest forgiveness; and
 - The interest rate for the period, if the conditions for forgiveness of interest are not met.
30. An advertisement that does not disclose all information required by examples 28 and 29 is considered to indicate that the transaction is unconditionally interest-free during the advertised period.
31. Advertisements offering a choice between a favourable interest rate financing and a rebate or cash purchase price disclose the effective interest rate of the financing option. In the case of a rebate the effective interest rate is the cost of borrowing at the low interest rate plus the value of the rebate. In the case of a cash purchase price, the effective interest rate is the cost of borrowing at the favourable interest rate plus the differential between cash purchase price and price if favourable interest rate is chosen. For example, if the choice is between a 1.9% annual interest rate or a \$2,000 cash rebate, the real cost of the financing option is 1.9% annually plus \$2,000. The following is an example of acceptable wording: "If vehicle financed at 1.9 % and the \$2,000 rebate is not taken, the effective interest rate is 9.2%."

32. The following terms are restricted or prohibited.

They are provided as examples only. Other terms that have a similar meaning or intent to those shown below are subject to the same restriction or prohibition. The numbers following the term refer to the section of these Standards that describes the restriction.

No salespeople
Public service announcement
Going out of business
Closing
Bankrupt, bankruptcy
In receivership
Liquidation
Lease expired
Moving, relocating
Fleet sale
Repossessed motor vehicles
Wholesale
Dealer cost
Factory price
Invoice price, under/over invoice price
Supply limited
Limited time only
Beat your best deal
Free
Push, pull, drag (or similar)
Extended warranty included
Bumper-to-bumper
All-inclusive
Savings

Note: More information about the SBP can be found in Chapter 6.07.

4.13

Using Stock Photographs in Advertisements

When a vehicle is advertised for sale and a photograph is to be used, dealers should use best efforts to ensure the photo is of the actual vehicle advertised. If that is not possible and a stock photo is to be used, that picture must accurately reflect the make, model, model year and condition of the actual vehicle.



4.14

Summary and Sample Ad

Dealers are responsible for the content of their ads. Should OMVIC believe a dealer's ad to be false, misleading or deceptive, it can order the dealer to cease the use of the material, and/or order the dealer to issue a retraction or correction.

Dealers found in breach of the advertising regulations may face charges, a discipline hearing, and/or proposal to revoke registration; they may also be required to submit all advertising to the Registrar for pre-approval for a period of up to two years!

The MVDA requires dealer ads to include the dealer's registered name and phone number (unless there are legitimate time/space constraints), accurately disclose an advertised vehicle's history (such as taxi, limo or emergency services use), status as used (if applicable), and availability (if price is given in the ad).

If a dealer's ad provides a price for a vehicle, that price must include freight and inspection charges, administration fees and all other fees, levies and taxes.

HST and licensing may be left out of the advertised price so long as the ad states in a clear, comprehensible and prominent manner that HST and licensing are not included in the price.

PROVIDING YOU WITH QUALITY
VEHICLES FOR MORE THAN 10 YEARS

\$15,000 PLUS TAXES

• Only 3 vehicles available for this price and model
• Former daily rental

\$25,500 PLUS TAXES

• Only 2 vehicles available for this price and model
• 1-year extended warranty or up to 20,000 kms with \$1,500 maximum claim limit

CONTACT US Phone: 1-800-123-4567 • Web: www.janesusedcars.ca • Address: 1234 Yonge Street, Markham ON

MVDA compliant ad

1. All-in pricing – includes all costs and no hidden fees

2. Identifies how many vehicles are available for this price and model

3. Identifies the vehicle as a former daily rental

4. Provides terms of extended warranty

5. Includes full contact information

Test Yourself

REMEMBER:

The questions on the MVDA Key Elements Test are in multiple-choice format only. This manual, however, contains a variety of question formats to help you understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.



The first questions below are the same questions asked in “What Do You Know?” at the beginning of this chapter. Try answering these questions again and compare your results with your earlier answers.

Then, answer the additional questions.

1. If a dealer’s advertisement contains a price for a vehicle, that price **must** include:
 - a) Administration fees
 - b) Taxes (unless ad states in a clear, comprehensible and prominent manner that taxes are not included)
 - c) Freight and PDI
 - d) “Other” mandatory fees such as documentation fees, window-etching fees, SSC fees, etc.
 - e) All of the above
2. True or False: If an advertisement is for a vehicle that was previously used as a police vehicle, that information must be prominently displayed in the ad.
3. True or False: If an advertisement is for a vehicle of the current model year, but the vehicle is used, the ad must clearly state the vehicle is used.
4. If OMVIC believes a dealer’s advertisement to be false, misleading or deceptive, it can:
 - a) Take the dealer to the LAT
 - b) Sue the dealer for misrepresentation
 - c) Order the dealer to issue a retraction or correction
5. Dealers found in breach of the advertising regulations may have to have their ads pre-approved by OMVIC for a period of up to:
 - a) Six months
 - b) One year
 - c) 18 months
 - d) Two years

Refer to Appendix 1 for the correct answers. Review the relevant section of the chapter for any question you answered incorrectly.

Chapter 5

CONSUMER PROTECTION ACT

5.01	Learning Objectives	5.10	“Material Fact”
5.02	What Do You Know?	5.11	“Honest Mistake”
5.03	Introduction	5.12	Financing Agreements
5.04	Customers vs. Consumers	5.13	Leasing Agreements
5.05	Penalties for Breaching the <i>Consumer Protection Act</i>	5.14	Disclosure Statement for a Lease (s.74)
5.06	Remedy Available to the Consumer	5.15	Dealer Financing (s.44)
5.07	Oral Evidence in Court	5.16	Implied Warranty Under the Sale of Goods Act
5.08	Ambiguity	5.17	Summary
5.09	Unfair Practices	5.18	Test Yourself



5.01

Learning Objectives

After completing this chapter, you will be able to identify:

1. Where and when the *Consumer Protection Act* applies
2. The differences between a “customer” and a “consumer”
3. The penalties for conviction of an offence under the CPA
4. The remedies available to the consumer under the CPA
5. The type of evidence that is admissible in court under the CPA
6. The approach of the courts to “ambiguity” in a consumer contract
7. The two types of unfair practices prohibited by the CPA
8. The essential element in an “unconscionable representation”
9. The meaning of “material fact”
10. The dealer’s obligations in financing and leasing agreements under the CPA

THE PROTECTIONS

granted to consumers by the CPA cannot be nullified in a contract.

5.02

What Do You Know?

Try answering these questions to test your knowledge:

- 1.** “Not all customers are consumers, but all consumers are customers.” Explain the difference between a consumer and a customer.
- 2.** True or False: The *Consumer Protection Act* protects “consumers” only.
- 3.** True or False: Protections under the *Consumer Protection Act* would apply to a carpenter buying a van for his small carpentry business.

Keep these questions in mind as you read through the following section.



5.03

Introduction

The *Consumer Protection Act, 2002* (CPA), applies to nearly all Ontario businesses (not just dealers), and it covers both goods and services, including vehicle sales, leasing and repairs. The CPA applies to consumer transactions if either the consumer *or* the supplier is in Ontario. If an Ontario-based business has sales with a consumer in another jurisdiction, that customer is protected under the CPA.

However, the protection provided in the CPA applies only to consumers. The CPA does not extend protection to businesses/corporations nor to an individual who is engaged in a business-to-business transaction.

The protections granted to consumers by the CPA cannot be nullified in a contract. Should a consumer sign a document that would waive some CPA rights, the piece of paper is worthless; the consumer is still entitled to all of his or her rights under the CPA.

Simply, a consumer’s rights under the law cannot be taken away by a contract.

5.04

Customers vs. Consumers

What is the difference between a customer and a consumer?

A “**customer**” is anyone who buys, leases or receives services from a dealer.

A customer may be an individual acting for personal, family or household purposes, an individual acting for business purposes (such as a sole proprietor) or a corporation.

A “**consumer**” also buys, leases or receives services from a dealer. However, a consumer is someone acting for personal, family or household purposes, but is NOT an individual acting for business purposes or a corporation.

Therefore, not all customers are consumers, but all consumers are customers.

THE CONSUMER PROTECTION ACT, 2002,

protects consumers only.

5.05

Penalties for Breaching the *Consumer Protection Act*

Penalties for breaching the CPA can be severe. Individuals convicted of an offence under the CPA can receive a maximum of two years less a day in jail and/or a fine of up to \$50,000. A corporation convicted of an offence can be fined up to a maximum of \$250,000.

5.06

Remedy Available to the Consumer

Under Section 18 of the CPA, if consumers believe they have been subjected to an unfair practice (a false, misleading, deceptive or unconscionable representation; see 5.09), they have the right to request rescission (cancellation) of the contract within one year of signing the contract. After one year, consumers cannot cancel the contract, but can still sue for damages.



Example: Last September, Shelly bought a used car that had been advertised as having anti-lock brakes (ABS). Thirteen months later, during the course of routine maintenance, she discovered the car was not equipped with ABS. Shelly is beyond the time limit to cancel the contract, but she can still sue for damages. Because the vehicle was misrepresented, this would be an example of an unfair business practice under the CPA.

5.07

Oral Evidence in Court

If a consumer goes to court and informs the judge that specific representations were made or certain matters were verbally discussed in negotiating the deal, even though none of these discussions are mentioned in the written agreement, the judge can still take these verbal discussions into account.

Under Section 18 of the CPA, such “oral evidence” is admissible. This means the dealer could be bound to some statement, term, condition or undertaking that a judge believes was discussed, even if it’s not included in the written agreement.

5.08

Ambiguity

If the language in any agreement, contract, bill of sale, lease, etc., is ambiguous (that is, the document can be interpreted in more than one way), the ambiguity will be interpreted in favour of the consumer and against the dealer.

Therefore, it is important for the dealer to ensure all contract language is clear and correct.

5.09

Unfair Practices

The CPA defines unfair practices, makes it very clear “misrepresentation” is not allowed, sets serious penalties for breaches and gives consumers real recourse if they have been misled.

Under Section 18 of the CPA, a court might award punitive or exemplary damages in cases of unfair practices. The consumer who takes the dealer to court might be awarded a sum much higher than the amount of the actual damage if the judge decides to punish or make an example of that dealer.

There are two types of unfair practices:

1. False, misleading or deceptive representations
2. Unconscionable representations (Section 15)

“False, misleading or deceptive practices” include:

1. Failing to disclose a “material fact” (e.g., not informing a customer of structural damage to the vehicle)
2. Deceiving a customer by distorting a “material fact” (using exaggeration, hints or double meanings)
3. Telling the customer the car can perform in a way that it cannot or is still under manufacturer’s warranty if it is not
4. Saying the car is of a particular model, style, quality or grade if it is not.
5. Telling the customer that the vehicle or a part is new (or unused) if it’s not
6. Seriously understating the distance the vehicle has been driven or the amount of use it has had
7. Selling a repair, replacement, service or part that is not needed
8. Saying there is a specific price advantage if this is not true (e.g., “The price will go up on Monday morning!”)
9. The dealer or salesperson misrepresents the authority of some employee to negotiate the final terms of the agreement

UNCONSCIONABLE REPRESENTATION:

A grossly unfair practice in which a business takes advantage of a consumer.

10. The dealer or salesperson misrepresents the purpose of an additional charge (e.g., freight and registration fee)

“Unconscionable representations” occur if:

1. The consumer cannot protect his or her own interests (perhaps because of a disability, illiteracy, impairment, etc.); for example, if the customer was drunk or under heavy medication when he signed the contract, he can have the deal cancelled
2. The price grossly exceeds the price that should be charged
3. The dealer or salesperson put too much pressure on the customer
4. The consumer has no possibility of meeting the payments
5. This is an absolutely poor deal for the consumer (and is a one-sided, excellent deal for the dealer)
6. The dealer or salesperson gave a misleading opinion and the consumer relied on that opinion to his or her detriment

Consider these scenarios:

Example 1: Alex, a dealer, has in inventory a four-year-old vehicle that had been owned for the full four-year period by a leasing company. Alex assures a customer the car had only one owner.

Example 2: Shane allows someone who obviously cannot read well to sign a contract for a three-year lease without explaining the conditions of the contract.

Example 3: Lucas pressures a widow to buy a car he knows is unsuitable, telling her that her late husband would have wanted her to have this car.

The above practices would likely be deemed by a court or tribunal as unfair business practices, and are illegal for the following reasons:

Example 1: Although Alex’s statement that the vehicle had only one owner is technically correct, it is misleading. It implies the vehicle was cared for by one individual, when in fact many different people have used the vehicle.

Example 2: This is an example of an unconscionable practice. Shane cannot enter into a contract with someone who is not able to protect his or her own interests due to physical infirmity (such as senility), illiteracy or an inability to understand the language of the contract.

Example 3: A court might consider this an unconscionable practice for two reasons:

1. Lucas is putting undue pressure on the customer.
2. Lucas is making a misleading statement of opinion that the customer is likely to rely on to her own disadvantage.

5.10

“Material Fact”

The CPA assumes that dealers and salespeople have more resources, knowledge and experience than the consumer does in determining the facts about a vehicle.

Dealers and salespeople have an obligation to disclose all “material facts” about the vehicle, even if the customer does not ask. A material fact is information that might affect the customer’s decision to purchase or lease the vehicle if he or she knew about it.

What is considered “material” may differ among customers.

For example, a minor “fender bender” may not matter to a customer who pays \$1,000 for a 15-year-old vehicle, but it will likely be important to a customer who pays \$50,000 for a brand new vehicle. One way to determine what “material” is to a particular customer is to listen to the questions that he or she asks about the vehicle.



Note: If a vehicle had been in a serious collision or incident, knowledge of this information would very likely affect any customer’s decision to buy, or the price the customer would be willing to pay. It is always best to err on the side of caution: dealers should tell a customer everything they can about a vehicle.

5.11

“Honest Mistake”

Dealers and salespeople should reveal everything they know about the vehicles they are selling, even if the customer doesn’t ask. If the dealer or salesperson had no knowledge of a problem, the dealer can still be held liable if they *should* have known.

If the dealer unknowingly breaches the CPA, the consumer is still fully entitled to the protection of the CPA. For example, the dealer buys a used vehicle at fair market value with 52,000 km on it and sells it to a consumer. A month later, the consumer discovers the odometer had been rolled back by a previous owner. Even though the dealer did not know about the roll back, and bought and sold in good faith, the consumer is protected by the CPA and may request cancellation of the contract or negotiate other compensation.

5.12

Financing Agreements

If the dealer assists a consumer in arranging financing for a vehicle, it is the dealer's obligation to ensure the consumer receives an Initial Disclosure Statement (IDS) or a Lease Disclosure Statement (LDS). Typically these are given when the consumer agrees to purchase or lease. It is an offence under the CPA if the dealer fails to deliver an IDS or an LDS to the consumer at or before the time the consumer enters into the agreement. The IDS must include:

- What the consumer will receive from the lender, including when and how they will receive it (e.g., the vehicle, cash rebate, payment of warranty premiums or other fees, etc.)
- The term of the agreement (e.g., three years)
- The cost of borrowing
- The amortization period if different from the term (in motor vehicle transactions, the amortization period and the term are usually the same)
- The interest rate
- If the interest rate may change during the term of the agreement, an explanation of those details
- When the lender will start charging interest
- When interest will be compounded
- Any other payments the consumer must make as a condition of borrowing (other than the interest)
- The details of any grace period under the agreement (e.g., if there is no interest for the first year of the agreement, a detailed description of how this works)
- The annual percentage rate
- Information about optional services (e.g., price, description, termination rights) if the dealer has not provided the consumer with a separate statement about these services
- The total of all payments the consumer is required to make
- If the consumer is not required to make regular payments, a description of how he or she is required to make payments
- An explanation of how each payment will be applied to the outstanding principal and interest
- Any prepayment rights, charges or penalties
- Required refund if consumer pays full balance early

- Charges the consumer will need to pay if he or she does not comply with his or her responsibilities under the agreement
- If there is mandatory insurance, an explanation that the consumer does not have to buy insurance through the dealer.

Include Multiple Agreements in the LDS

If the consumer signs more than one agreement (e.g., a lease and a bill of sale), the information required in the LDS should be included in both documents to ensure there is no confusion. If it is not possible to include all the details in both agreements, the dealer could include a statement that the consumer has received the detailed information on a separate agreement (and have the consumer initial that statement). Refer to Chapter 5.14 for more information about the LDS.

Ultimately, it is the dealer's responsibility to ensure the consumer has received this information in a clear, comprehensible and prominent fashion in accordance with the CPA.

5.13

Leasing Agreements

The CPA requires that:

1. Conditions and warranties of merchantable quality, fitness for purpose and freedom from liens (in the *Sale of Goods Act*) are extended to include leased vehicles.
2. Restrictions apply to the amount charged on residual obligation (open-end) leases.
3. Full disclosure of the cost of credit is included in lease agreements and advertisements.

CPA Regulation 73 requires vehicle lease advertisements disclose:

1. That it is a lease
2. Length of the lease
3. Any payment to be made before or at the beginning of the lease.
4. The amount of the monthly payment
5. Details of any other payments and how they are calculated
6. The amount that the lessee will be charged for exceeding the mileage allowance and how it is calculated
7. Annual percentage rate for the lease (this must be displayed as prominently as the most prominently disclosed payment that forms part of the lease)

5.14

Disclosure Statement for a Lease (Section 74)

Under the CPA, disclosure must be made before the agreement is signed or before accepting payment.

Disclosure statements must be in writing and disclose:

1. That it is a lease
2. Length of the lease
3. A fair and accurate description of the leased vehicle
4. Lease value of the vehicle (this should be comparable to what a cash customer would pay for the vehicle)
5. Details of any advance to be made by the person leasing the vehicle
6. Any payment to be made before or at the beginning of the lease
7. Amount of the monthly payment
8. Number of monthly payments
9. “Capitalized amount”
10. “Estimated residual value” of the vehicle
11. If it is an “option lease,” complete details of how the option may be exercised
12. If it is a “residual obligation lease,” complete details of the lessee’s liability at the end of the lease
13. Circumstances, if any, of early termination of the lease by the lessee and/or the lessor, and how the lessee’s payment is calculated
14. Any other payment by the lessee (including calculation for unreasonable or excessive wear or use)
15. Implicit finance charge
16. Annual percentage rate
17. Total lease cost

5.15

Dealer Financing (Section 44)

The MVDA contains additional requirements for dealers to ensure a customer receives the proper disclosures required by the CPA.

For example, if a registered motor vehicle dealer enters into a contract for the sale of a motor vehicle with a buyer and provides financing for the purchase or the application for the financing to the buyer, the selling dealer shall use best efforts to ensure the terms of the credit agreement between the buyer and the person providing the financing do not vary from the information the dealer has provided to the buyer on the bill of sale or lease agreement.

5.16

Implied Warranty Under the Sale of Goods Act

The *Sale of Goods Act* requires that vehicles sold are of “merchantable quality” and “fit for purpose” and that the buyer receive “quiet possession.”

“Merchantable Quality”

A vehicle is not of merchantable quality unless it provides transportation.

There must be no hidden defects and the vehicle must provide reasonable transportation for a reasonable period of time. This does not need to be written into the sales agreement; the *Sale of Goods Act* implies this as a condition within the contract.

“Fit for Purpose”

Vehicles must be fit for the purpose for which they are intended. If a farmer is buying a used truck and tells the salesperson that he will sometimes be using the truck for hauling in his gravel pit operation, then the truck must not only be strong enough for normal farm work but also strong enough for the heavier gravel. This does not need to be written into the sales agreement; the *Sale of Goods Act* implies this as a condition within the contract.

“Quiet Possession”

Purchasers are entitled to quiet possession of their vehicles, secure that a bailiff will not seize the vehicle because of an undisclosed lien or that the police will not seize the vehicle because it turned out to be stolen. This does not need to be written into the sales agreement. Under the *Sale of Goods Act*, it is an implied condition that the seller has the right to sell the vehicle (even if the dealer acted in good faith and did not know the vehicle was stolen). The buyer is entitled to demand and receive all money back from the dealer. The *Sale of Goods Act* does not cover leases or services (repairs); however, the *Consumer Protection Act* (Section 9) extends the implied conditions and warranties in the *Sale of Goods Act* to cover consumer leases.



5.17

Summary

The *Consumer Protection Act* forbids a business from using “false, misleading, deceptive or unconscionable representations.” The CPA sets out remedies for consumers who have been victims of these “unfair practices,” including the right to cancel a contract for a period of up to one year. There are also serious penalties and/or fines for individuals and businesses that breach the CPA.

The CPA has specific requirements in such areas as the advertised cost of credit, financing agreements and leasing agreements, and the lease disclosure statement. The CPA may not apply equally to all “customers.” The protections under the CPA apply only to consumers (persons acting for personal, family or household purposes) and do not apply to an individual acting for business purposes, nor to a corporation.

5.18

Test Yourself



The first questions below are the same questions asked in “What Do You Know?” at the beginning of this chapter. Try answering these questions again and compare your results with your earlier answers.

Then, answer the additional questions.

1. “Not all customers are consumers, but all consumers are customers.” Explain the difference between a consumer and a customer.
2. True or False: The CPA protects “consumers” only.
3. True or False: Protections under the CPA would apply to a carpenter buying a van for his or her small carpentry business.
4. True or False: The CPA covers sales but not leases, and not services such as repairs.
5. True or False: The consumer can waive their rights under the CPA, but this must be in writing.
6. Penalties for breaching the CPA can be severe. What is the maximum penalty for an *individual* convicted of an offence under the CPA?
7. True or False: In matters related to the CPA, courts will only consider evidence that is written into the contract.
8. The two “types” of unfair practices are (choose two):
 - a) Unconscionable representations
 - b) Ambiguous representations
 - c) Disingenuous representations
 - d) False, misleading or deceptive representations
9. Provide three examples of a “false, misleading or deceptive practice.”
10. What is the essential element of an “unconscionable representation”?

REMEMBER:

The questions on the MVDA Key Elements Test are in multiple-choice format only. This manual, however, contains a variety of question formats to help you understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.

Refer to Appendix 1 for the correct answers. Review the relevant section of the chapter for any question you answered incorrectly.

11. Choose the most correct answer.

An unconscionable representation:

- a) May involve taking advantage of a consumer who cannot protect his or her own interests
- b) Involves a customer who has no conscience
- c) Must involve selling a vehicle at a price that is ridiculously high

12. Provide three examples of an “unconscionable representation.”

13. Explain “material fact.”

14. List four pieces of information that must be included in an Initial Disclosure Statement.

15. List four pieces of information that must be included in a Lease Disclosure Statement.

16. True or False: If a dealer acted in good faith and unknowingly breached the CPA, the consumer is no longer protected by the CPA.

Chapter 6

CODE OF ETHICS REGULATIONS

6.01	Learning Objectives	6.06	Disciplinary Procedure
6.02	What Do You Know?	6.07	Standards of Business Practice
6.03	Introduction	6.08	Summary
6.04	Code of Ethics Regulations	6.09	Test Yourself
6.05	Discussion of the Code of Ethics Regulations		



6.01

Learning Objectives

After completing this chapter, you will be able to identify:

1. The dealer's and salesperson's responsibilities under the Code of Ethics Regulations
2. The seven categories within the Code of Ethics Regulations
3. The meaning of "clear and truthful"
4. The meaning of "legal, decent, ethical and truthful"
5. The disciplinary process for dealers or salespersons who breach the Code of Ethics Regulations
6. The roles of the Discipline Panel and Appeals Panel

6.02

What Do You Know?

Try answering these questions to test your knowledge:

- 1.** True or False: The Code of Ethics Regulations are guidelines or “best practices” but do not have any real legal authority.
- 2.** Dealers and salespeople are required to conduct business in accordance with the law and with (select all that apply):
 - a) Integrity
 - b) Honesty
 - c) Fairness
 - d) Passion
- 3.** Failure to abide by the Code of Ethics Regulations can result in:
 - a) Revocation of registration
 - b) Refusal to grant or renew registration
 - c) A disciplinary hearing
 - d) All of the above

Keep these questions in mind as you read through the following section.



6.03

Introduction

In some industries, a “code of ethics” is a pledge or a promise of certain standards of conduct, but their “code” doesn’t really have the force of law. That is not the case with the *Motor Vehicle Dealers Act* (MVDA) Code of Ethics. The Code of Ethics Regulations are now part of the Regulations under the MVDA. These regulations are the law and dealers and salespeople must abide by this code.

The MVDA (Section 6) requires that all dealers and salespeople conduct business in accordance with the law and with *integrity and honesty*. Section 23 requires that dealers ensure their employees/salespeople carry out their duties in compliance with the MVDA and Regulations, including the Code of Ethics Regulations.

A DEALER’S or salesperson’s failure to abide by the Code of Ethics Regulations can result in revocation of registration, refusal to grant or renew registration or the registrant can be brought before a Disciplinary Panel (see 6.06).

6.04

Code of Ethics Regulations

The Code of Ethics Regulations (Ontario Regulation 332/08) sets out the following requirements for dealers and/or salespersons:

1. Integrity:

- a) A dealer and a salesperson must be financially responsible.
- b) A dealer and a salesperson must never indicate that the Ontario Motor Vehicle Industry Council (OMVIC) has set or approved any payment or commission.

2. Disclosure and marketing:

- a) Dealers and salespeople must be clear and truthful in describing a vehicle, products, services, programs and prices.
- b) Advertising must be legal, decent, ethical and truthful.
- c) Before entering into a contract, the dealer must explain to the customer the terms of a contract and the customer's obligations under the contract.

3. Disclosure of the required information in sales contracts and in leases:

The Regulation lists 22 items that must be disclosed when a dealer sells or leases to another registered dealer.

4. Accountability:

- a) The dealer must ensure that the salesperson complies with the Code of Ethics Regulations.
- b) The salesperson must not do anything (or omit to do anything) that causes the dealer to break the Code of Ethics Regulations or break the law.

5. Compliance:

- a) The dealer or salesperson must make sure that all dealer documents are current and comply with the law.
- b) The dealer must assist the buyer or lessee with subsection 11(2) of the *Highway Traffic Act* (applying within six days for a new vehicle permit) unless the buyer/lessee instructs the dealer not to do so.

6. Respect:

- a) i) A dealer or salesperson must not do anything insulting to human dignity or integrity; and
ii) Shall not use offensive symbols.
- b) A dealer and a salesperson must carry on business ethically and with respect for all persons with whom they do business.

7. Professionalism:

- a) A dealer and a salesperson must not do anything disgraceful, dishonourable, unprofessional or unbecoming.
- b) A dealer and a salesperson shall act with honesty, integrity and fairness.
- c) A dealer and a salesperson shall use his or her “best efforts” to prevent error, misrepresentation, fraud or any unethical practice.
- d) A dealer and a salesperson shall provide “conscientious service” to customers and demonstrate reasonable knowledge, skill, judgment and competence.
- e) If a customer trades in a vehicle to a dealer, and the dealer agrees to pay any outstanding loan (or outstanding bill for repair or storage), then the dealer must fulfill that obligation.

6.05

Discussion of the Code of Ethics Regulations

The Code of Ethics Regulations stipulates that required disclosures by a registrant (either a dealer or a salesperson) be clear and truthful:

1. In giving information about the features, benefits and prices of a vehicle
2. In telling all about the products, services, programs and prices that are available with the purchase of the vehicle

As well, any representation (including any form of advertising) by the registrant must be legal, decent, ethical and truthful.

“Clear and Truthful”

Being “clear and truthful” means that any statement a salesperson or dealer makes is the truth as he or she knows it to be. The statement cannot be a lie or a “half-truth” intended to mislead. Such a statement would also be prohibited by the *Consumer Protection Act*.

Being clear means that the customer understands the information.

A salesperson or dealer must be certain the information is given in a manner that meets the circumstances of the customer. This could include:

1. Providing a translator if the customer is not fluent in or does not understand the language spoken by the salesperson or dealer
2. Fully explaining to the customer any technical terms or jargon
3. Explaining to the customer the available information about a vehicle and its products, services, programs and prices

“Legal, Decent, Ethical and Truthful”

Salespersons and dealers must ensure that any statements they make are legal, decent and ethical. The statement cannot be false, misleading or illegal.

6.06

Disciplinary Procedure

Section 14 of the MVDA provides OMVIC with a number of means for handling complaints.

OMVIC may:

- Attempt to resolve the complaint
- Give a written warning to the registrant
- Require the dealer or salesperson to take further educational courses
- Issue a proposal to refuse to register the dealer or salesperson, suspend or revoke a registration, refuse to renew a registration, or place a condition on a registration
- Refer the matter in whole or in part to the Discipline Committee (for breaches of the Code of Ethics)

If a dealer or salesperson is accused of contravening the Code of Ethics Regulations, OMVIC may issue a Notice of Complaint. This is considered an administrative action. Once the Notice of Complaint is received, the accused may respond and provide an explanation or defence. If the accused agrees that the Code of Ethics was breached, he or she may choose to negotiate a settlement with the assigned OMVIC legal staff. If there is no offer to settle, a discipline hearing will be held.

The discipline hearing will take place in front of three “panellists” who will rule on the outcome. If a dealer has been brought before the panel, at least one of the panellists will be a dealer; if a salesperson is the subject of the hearing, at least one of the panellists will be a salesperson, and one of the panellists must be a person who is neither a dealer nor a salesperson. OMVIC staff will present evidence and the dealer or salesperson (registrant), usually accompanied by independent legal representation, will present their defence.

If the panel finds the registrant did breach the Code of Ethics, the panel can order:

- The dealer or salesperson to take further educational courses
- The dealer to pay for educational courses for sales staff
- A fine up to a maximum of \$25,000
- The dealer or salesperson to pay the costs of the hearing



Think what is meant by the phrase “a clear view.” This means a person is able to see everything before him or her. Nothing is hidden from sight and he or she knows exactly what to expect when stepping forward.

A DEALER or

salesperson may appeal the decision of the Discipline Panel within 30 days.

THE APPEALS COMMITTEE

may overturn, affirm or modify the order of the Discipline Committee.

The ruling of the Discipline Panel may be appealed to the Appeals Committee. Once an appeal is received, the committee will convene another hearing before an Appeals Panel. Like the Discipline Panel, the Appeals Panel is composed of three industry and non-industry members.

The Appeals Panel may overturn, affirm or modify the order. The ruling of the Appeals Panel cannot be appealed.

Time Limits

Under the Code of Ethics Regulation 13, there is a time limit for discipline proceedings; OMVIC has two years from the day on which OMVIC first came to know the facts upon which the complaint is based to begin the process.

Making Decisions Public

The MVDA requires OMVIC to make public the details of all discipline cases in which dealers/salespeople are found to have breached the Code of Ethics.

6.07

Standards of Business Practice



The Standards of Business Practice (SBP) have been developed by OMVIC to help dealers and salespersons (registrants) interpret and understand the expectations of the Code of Ethics, the Code of Ethics Regulations, and the General Regulations by providing practical examples and by applying the standards of honesty and integrity in specific situations.

These practices represent minimum standards and are meant to be illustrative rather than exhaustive. OMVIC anticipates dealers and salespersons will wish to exceed these minimum standards and that they will conduct all business activities with honesty, fairness, integrity and within the law at all times.

Note: Despite any contract or waiver to the contrary, the Code of Ethics applies to all registrants.

Integrity

1. A registrant shall be financially responsible in carrying on business.
2. A registrant shall not indicate to any person, directly or indirectly, that any payment, commission or other remuneration in connection with a trade (sale, purchase or lease) in a motor vehicle is fixed or approved by OMVIC, a government authority or any motor vehicle board or association.

Examples of Integrity

1. Registrants meet all financial obligations incurred in relation to motor vehicle transactions, including buying, selling or leasing vehicles. This would include immediately removing a lien from a customer's trade-in if that was part of an agreement.
2. Registrants promptly, honestly and willingly perform all of their contractual obligations.

Disclosure and Marketing

1. Dealers and salespersons shall be clear and truthful in describing the features, benefits and prices connected with the motor vehicles in which they trade, and in explaining the products, services, programs and prices connected with those vehicles.
2. Dealers and salespersons shall ensure that all representations, including advertising, made in connection with trading (buying, selling or leasing) in motor vehicles, are legal, decent, ethical and truthful.
3. Before entering into a contract with a customer, the dealer shall explain the terms of the contract, including the financial and other obligations, if any, of the customer under the contract.

Examples of Disclosure

1. All information requiring disclosure by these SBP clear and prominent so that in the consideration of the Registrar (OMVIC), it can be easily noticed and understood by a consumer. The Registrar will consider factors that include:
 - a) Size of print
 - b) Clarity and legibility of font
 - c) Location of the disclosed information in the advertisement;
 - d) Prominence of the disclosed information compared to other information in the advertisement; and
 - e) In a broadcast advertisement, the length of time that the message appears or is presented
2. Disclosure in advertisements appearing in newspapers, periodicals and other publications is printed in a minimum size and font that is the same as that normally used in the classified advertising of the publication where the advertisement appears.
3. Where disclosure of leasing or financial information is required by these SBP in a broadcast advertisement, the advertisement should include either of the following messages:

- a) A telephone number and a statement that the number may be called to obtain pre-recorded disclosure of the information. For example, “Call [###-####] for full financing information.” The required information must be available on a pre-recorded message and may be followed by an option connecting the caller to a live operator.
Note: A pre-recorded message is not required if the broadcast advertisement discloses the down payment, the periodic payment, the period of the payment, the term, the annual finance or lease rate, and in the case of a lease, the maximum allowable kilometres over the term of the lease and the lease end obligations.
The above must be based on the all-in price required by Section 36 of the General Regulations; or
 - b) A statement that full disclosure can be obtained in a concurrent newspaper advertisement. For example, “See our ad in your local newspaper for full financing information.” The newspaper must be locally available in the market area of the advertiser.
- 4. Advertisements disclose that they have been placed by a dealer.
This can be done in one of two ways:
 - a) By including a trade style name provided to OMVIC, usually the dealer’s registered name; or
 - b) By including the word “dealer” in the advertisement.
 - 5. Advertisements do not indicate or imply that consumers may purchase or lease a car from an unregistered salesperson; for example, “No Salespeople.”
 - 6. Advertising of specific vehicles does not indicate or imply, through words, phrases or style, that it is not presented for commercial purposes; for example, “Public Service Announcement.”
 - 7. Advertisements do not contain statements that are ambiguous, misleading or deceptive due to unclear, unverifiable or inaccurate information.
 - 8. Advertisements do not refer to an award unless its source and date is disclosed, nor may they refer to an award if it was purchased by the registrant, and is not based on any verifiable test or research. This does not refer to celebrity endorsements.
 - 9. Advertisements do not indicate or imply that vehicles are being offered out of the ordinary course of business unless full disclosure of the situation is made. Examples of prohibited terms include:
 - a) Going out of business, closing
 - b) Bankrupt, in receivership, liquidation
 - c) Lease expired, moving
 - d) Fleet sale; and
 - e) Repossessed motor vehicles

10. The term “wholesale” is not used to describe any transaction other than one between motor vehicle dealers.
11. If a dealer’s registered or trade style name includes “liquidation” or “wholesale,” all advertisements for vehicles offered for retail sale or lease include the word “retail.”
12. Advertisements do not indicate or imply that vehicles are offered for retail sale or lease without economic advantage to the dealer. Examples of prohibited terms include:
 - a) Dealer cost; and
 - b) Factory price, invoice price, under/over invoice price.
13. Advertisements for used vehicles that are of the current model year or the previous model year indicate that the vehicle is used. This could include the use of terms or phrases such as:
 - a) “Used”;
 - b) “Pre-owned”;
 - c) “Previously driven” or another phrase that is accurate and discloses that the vehicle is not new.
14. Advertisements of a specific used vehicle disclose all known material facts about the prior use of the vehicle, including if it was a:
 - a) Daily rental, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer;
 - b) Police vehicle or emergency services vehicle; or
 - c) Taxi vehicle or limousine.
15. Advertised vehicles are:
 - a) At the advertised location or available at the advertised location;
 - b) In condition to be shown;
 - c) Willingly shown to a consumer;
 - d) Willingly shown under the same terms as advertised;
 - e) Sold on the same terms as advertised; or
 - f) If not available from the dealer’s on-site inventory, disclosed as available by factory order or dealer trade.
16. A vehicle (or class of vehicles) is not advertised at a specific price or with specific incentives unless the dealer is able to supply a quantity of those vehicles that is reasonable considering factors that include the size of the dealership and the target area of the advertisement.
17. Advertisements do not misrepresent the opportunity to purchase a vehicle. If the available supply of vehicles is unusually limited, the nature of the limit, such as the number available or the time they are available, is disclosed. If a factory order or acquisition from another dealer is or may be required, this is also disclosed.

18. Dealers do not use phrases such as “supply limited” or “limited time only” if they are misleading considering factors including the number of vehicles available to the dealer and the dealer’s target area.
19. Illustrations/photos of vehicles offered for sale accurately reflect the make, model, model year and condition of the vehicle(s) if an exact illustration is not available.
20. Advertisements do not encourage a breach of contract. For example, “We will beat your best deal.”
21. Advertisements using the word “free” clearly indicate that the item is only free with purchase at the advertised price.
22. Advertisements do not guarantee a minimum trade-in allowance. For example, “Push, pull, drag your trade-in for \$2,000 guaranteed.”
23. Advertisements that include an extended warranty with purchase also include in a clear, comprehensible and prominent manner the term of the warranty and the maximum individual claim limits, if applicable.
24. Words or phrases that indicate or imply that a warranty covers all of a vehicle, or lasts for an unlimited time, or both, are not used unless the warranty is without such exclusions. Prohibited phrases include:
 - a) Bumper-to-bumper;
 - b) Inclusive/all-inclusive; and
 - c) Total.
25. All disclosure in advertisements that appear in newspapers, periodicals and other publications is printed in a size and font that is, at a minimum, the same as that normally used in classified advertising by the publication where the advertisement appears.
26. Savings amounts shown in new vehicle advertising is based on a vehicle’s average selling price, not the Manufacturer’s Suggested Retail Price (MSRP). Dealers may demonstrate and support the average selling price. For example:

MSRP \$20,000
Average Selling Price \$19,000
Sale Price \$18,500
Savings \$500
27. Advertisements that offer no interest periods also state the period of time that the offer applies and disclose whether:

- a) The transaction is without any interest during the advertised period; or
- b) Interest accumulates during the advertised period but will be forgiven under certain conditions.

An advertisement that does not disclose all information required is considered to indicate that the transaction is unconditionally interest-free during the advertised period.

If interest accumulates during the period but may be forgiven, ads disclose:

- a) The conditions for interest forgiveness; and
- b) The interest rate for the period, if the conditions for forgiveness of interest are not met.

An advertisement that does not disclose all information required is considered to indicate that the transaction is unconditionally interest-free during the advertised period.

28. Advertisements offering a choice between financing at a favourable interest rate and a rebate or cash purchase price disclose the effective interest rate of the financing option. In the case of a rebate, the effective interest rate is the cost of borrowing at the low interest rate plus the value of the rebate. In the case of a cash purchase price, the effective interest rate is the cost of borrowing at the favourable interest rate plus the differential between cash purchase price and price if favourable interest rate is chosen. For example, if the choice is between a 1.9% annual interest rate and a \$2,000 cash rebate, the real cost of the financing option is 1.9% annually plus \$2,000. The following is an example of acceptable wording: "If the vehicle is financed at 1.9% and the \$2,000 rebate is not taken, the effective interest rate is 9.2%."
29. Advertisements that indicate or imply that all credit applications will be approved disclose whether a down payment may be required.
30. The use of potentially misleading or incomplete terms or phrases in advertising is not allowed. The following are examples of such terms or phrases that are restricted or prohibited. These are provided as examples only. Other terms that may have a similar meaning or intent to those shown below are subject to the same restriction or prohibition.
- a) All-inclusive
 - b) Bankrupt, bankruptcy
 - c) Beat your best deal
 - d) Bumper-to-bumper

- e) Closing
- f) Dealer cost
- g) Extended warranty included
- h) Factory price
- i) Fleet sale
- j) Free
- k) Going out of business
- l) In receivership
- m) Invoice price, under/over invoice price
- n) Lease expired
- o) Liquidation
- p) Limited time only
- q) Limited supply
- r) Moving, relocating
- s) No salespeople
- t) Public service announcement
- u) Push, pull, drag (or similar)
- v) Repossessed motor vehicles
- w) Savings
- x) Wholesale

Disclosure of Information in Contracts of Sale and Lease Between Dealers

A dealer who enters into a contract to sell or lease a motor vehicle to a person who is also a registered motor vehicle dealer shall ensure the following information is disclosed in the contract:

1. If the vehicle is used, the total distance that it has been driven.
2. If the dealer cannot determine the total distance that the vehicle has been driven, but can determine the distance that the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that “the total distance the vehicle has been driven is believed to be higher than that distance.”
3. If the dealer can determine neither the total distance that the vehicle has been driven, nor the distance that the vehicle has been driven as of some past date, a statement that “the total distance the vehicle has been driven is unknown and may be substantially higher than the reading shown on the odometer.”
4. If the vehicle’s odometer is broken or faulty, has been replaced, has been rolled back or is in miles, a statement to that effect.
5. If any of the following is true of the vehicle, a statement to the effect that the vehicle was previously:
 - a) Leased on a daily basis (daily rental), unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer;

- b) Used as a police vehicle or used to provide emergency services; or
 - c) Used as a taxi or limousine.
6. If the vehicle has sustained any damage caused by fire, a statement to that effect.
 7. If the vehicle has sustained any damage caused by immersion in liquid that has penetrated to the level of at least the interior floorboards, a statement to that effect.
 8. If there has been structural damage to the vehicle or any repairs, replacements or alterations to the structure of the vehicle, a statement to that effect.
 9. If the vehicle is equipped with an anti-lock braking system that is not operational, a statement to that effect.
 10. If any of the vehicle's airbags are missing or are not operational, a statement to that effect.
 11. If the vehicle is materially different from the original or advertised production specifications, a statement to that effect.
 12. If the vehicle has two or more adjacent panels that are not bumper panels and that have been replaced, a statement to that effect.
 13. If the model year of the vehicle is the current model year or the immediately preceding model year and any panels have been repainted, a statement to that effect.
 14. The make, model, trim level and model year of the vehicle.
 15. If any badge or other indication on the vehicle relates to a different model than the model of the vehicle, a statement to that effect.
 16. If the total costs of repairs to fix the damage caused to the vehicle by an incident exceed \$3,000, a statement to that effect and if the dealer knew the total costs, a statement of the total costs.
 17. If the manufacturer's warranty on the vehicle was cancelled, a statement to that effect.
 18. If the vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was branded as irreparable or as salvage, a statement to that effect.
 19. If the vehicle was previously registered in some other jurisdiction(s) (province, state, country), a statement to that effect and a statement of which jurisdictions, unless the vehicle has been registered in Ontario for at least the seven previous consecutive years.
 20. If the vehicle has been branded as irreparable, salvage or rebuilt, a statement as to how it was last classified.
 21. If the vehicle has been recovered after being reported stolen, a statement to that effect.

22. Any other fact about the vehicle that affects the structural or mechanical quality or performance of the vehicle that if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle.

Accountability

1. Dealers shall ensure that every salesperson the dealer employs or retains to act as a salesperson carries out his or her duties in compliance with the Code of Ethics.
2. Salespersons shall not do, or omit to do, anything that causes the dealer who employs or retains the salesperson to contravene the Code of Ethics or any applicable law with respect to trading in motor vehicles.

Examples of Accountability

1. Registrants are responsible for the business conduct of employees of the dealership and for maintaining a high quality of sales and service practices.
2. Dealers are responsible for the business conduct of employees of the dealership and for maintaining a high quality of sales and service practices.

Compliance

1. Registrants shall ensure that all documents used in the course of a trade in a motor vehicle are current and comply with the law.
2. A dealer who enters into a contract with a person for the sale of a motor vehicle shall register the vehicle in the purchaser's name, unless the person instructs the dealer not to do so.

Examples of Compliance

1. Where a retail contract expressly provides for a return policy, all terms and conditions of the return policy, including the length of the return period, are disclosed on the contract.
2. Where a vehicle is sold on an "as is" basis, this fact is clearly indicated on the front of the retail contract, along with the following statement:
"The motor vehicle sold under this contract is being sold "as is" and is not represented as being in road worthy condition, mechanically sound or maintained at any guaranteed level of quality. The vehicle may not be fit for use as a means of transportation and may require substantial repairs at the purchaser's expense. It may not be possible to register the vehicle to be driven in its current condition."

3. Where a dealer sells an extended warranty, product warranty or service plan for a third party, the dealer completes and submits the application and payment to the warrantor within seven days. In the event that the warrantor does not accept the application, the dealer promptly refunds the warranty fee.
4. If a dealer sells a vehicle on consignment, the bill of sale between the dealer and the final purchaser is the same as for any other vehicle sale. The same disclosure requirements, implied warranties and obligations as set out in the *Consumer Protection Act*, *Sale of Goods Act*, and any other consumer protection legislation in force in Ontario, apply to dealers offering and selling vehicles on consignment as they do to any other consumer transaction.
5. The Standards of Business Practice apply to dealers who carry on business as a public motor vehicle auction.
6. The use of the “as is” statement does not eliminate potential liability, since a purchaser may still choose to pursue the matter against a dealer through civil action. The “as is” statement is being provided to dealers as a means of providing clear disclosure to a purchaser. If a dealer believes further disclosure is required, then the dealer ensures the disclosure is made in writing on the bill of sale and has the disclosure signed by the purchaser.
7. If a retail contract does not clearly indicate that a vehicle was sold on an “as is” basis by using the prescribed “as is” definition statement (example 2 above), then the vehicle is not considered sold on an “as is” basis.
8. A vehicle sold to a consumer that is not sold on an “as is” basis is considered to be fit for the purpose of being driven for regular daily use for a reasonable period of time, having regard to factors including:
 - a) The type or class of vehicle;
 - b) Prior use of the vehicle previously disclosed to the consumer;
 - c) Age and distance travelled; and
 - d) Material facts described in example 7, which were previously disclosed to the consumer.
9. Retail contracts state on the front whether an extended warranty, guarantee or service plan is provided with the motor vehicle. If a warranty is provided, the source of the warranty, guarantee or service plan is identified on the front of the contract.
10. Dealers only sell extended warranties that are insured, or for which the appropriate letter of credit has been posted.

11. All terms and conditions of a credit agreement, including a consumer loan or lease, are set out in a written agreement that includes all matters required by credit disclosure legislation in force in Ontario.
12. The following standards apply, with necessary modifications to vehicles sold on a consignment basis, and to dealers who carry on business as a public motor vehicle auction. In addition, where a dealer intends to sell a vehicle on consignment, the consignment agreement includes:
 - a) The name and address of the consignor;
 - b) The business name, a registered name and the registration number of the dealer, together with the legal name of the dealer if it is different from the registered name;
 - c) The make, model, trim level and model year of the vehicle;
 - d) The colour, vehicle identification number (VIN) and body type of the vehicle;
 - e) If the vehicle is used, the total distance that the vehicle has been driven if the dealer can determine the distance;
 - f) If the vehicle is used and the dealer cannot determine the total distance that the vehicle has been driven, but can determine the distance that the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that “the total distance that the vehicle has been driven is believed to be higher than that distance”;
 - g) If the vehicle is used and the dealer can determine neither the total distance that the motor vehicle has been driven, nor the distance that the vehicle has been driven as of some past date, a statement that “the total distance the vehicle has been driven is unknown and may be substantially higher than the reading shown on the odometer”;
 - h) The total amount that the dealer will charge the consignor on the sale of the vehicle, whether as a fixed amount or as a commission share of the total amount payable by the purchaser, and an itemized list of all components of those charges;
 - i) An estimate of the selling price of the vehicle and a minimum selling price of the vehicle;
 - j) The term of the contract and, if applicable, how the parties can extend it or a statement that the parties cannot extend it;
 - k) If the contract can be terminated before it is set to expire, the conditions respecting such early termination, including the fees, if any, payable for early termination;
 - l) An acknowledgement the dealer is required to hold all monies received towards the purchase of the consigned vehicle (including trade-in allowances given) in favour of the consignor, in trust,

- until the purchase is concluded; acknowledgement of this must be initialled by the consignor;
- m) Disclosure statements (required by Section 42 of the General Regulations) are obtained from (initialled or signed) the consignor, along with a statement that the consignor understands they are not required to provide the dealer with a signed original ownership for the consigned vehicle until the vehicle is sold. Such disclosure is initialled by the consignor if the dealer obtains a signed ownership;
 - n) An indication of who is responsible for loss or damages to the vehicle while consigned. If the consignor is responsible, the dealer obtains the consignor's insurance information;
 - o) Lien disclosure from consignor;
 - p) OMVIC's contact information similar to what is required in a retail bill of sale; and
 - q) An indication of how long after the sale of the vehicle the consignor will be informed of the sale and the consignor will receive payment.

Consigning dealers obtain prior written consent of the consignor for any of the following:

- a) *Selling the vehicle for an amount below its minimum selling price;*
 - b) *Using the consigned vehicle for any other purpose besides offering it for sale;*
 - c) *Removing the vehicle from the dealers business premises for more than 24 hours; or*
 - d) *Affecting any alterations, repairs, servicing or reconditioning of the consigned vehicle unless they are done as part of an agreement to sell the consigned vehicle.*
- 13. If a dealer sells a vehicle on consignment, the dealer notifies the purchaser, prior to the sale, that the purchaser's name and address will be disclosed to the consignor of the vehicle.
 - 14. If a dealer sells a vehicle on consignment, the dealer discloses to the consignor the name and address of the final purchaser of the motor vehicle, and the sale price of the motor vehicle, after the sale.
 - 15. Dealers who enter into an agreement to sell a vehicle on consignment comply with the provisions of the *Highway Traffic Act* by entering all required information with respect to the motor vehicle in the Dealer's garage register upon making the agreement.

Respect

- 1. In carrying on business, dealers and salespersons shall not engage in any act or omission that would reasonably be regarded as insulting to human dignity or integrity, nor shall they use symbols that would reasonably be regarded as offensive.

2. Dealers and salespersons shall carry on business ethically and with respect for the rights and interests of the persons with whom they do business.

Examples of Respect and Ethics

1. Advertisements do not present insulting portrayals of individuals or groups, and do not exploit violence, sex, children, customs or characteristics of religious or ethnic groups, persons with disabilities or any person or group in a way that offends current legal and ethical standards. Advertisements do not portray the motor vehicle industry, salespeople or dealers in an insulting or derogatory manner.
2. Dealers and salespersons only collect and use personal information, including financial information, disclosed in the course of negotiating a transaction that is necessary to complete it.
3. Dealers and salespersons do not collect or use personal information without the knowledge or consent of the individual, unless:
 - a) It is required or expressly permitted by law;
 - b) The collection or use of the information is clearly in the interests of the individual and consent cannot be obtained in a timely way; or
 - c) It is reasonable to expect that collection of the information from the individual would adversely affect its accuracy or would defeat the purpose for collecting or using the information.
4. Dealers and salespersons use personal information only for the purpose for which it was collected, except where used in accordance with example above.
5. Dealers and salespersons do not disclose personal information, without the knowledge or consent of the individual unless:
 - a) It is required or expressly permitted by law; or
 - b) For the purpose of conducting legal proceedings to recover a debt by the registrant against the individual.
6. Dealers and salespersons only disclose personal information for the purpose for which it was collected, except where disclosed in accordance with example 3 above.
7. Dealers and salespersons comply with the provisions of the Ontario's *Human Rights Code*.
8. Registrant employees treat customers in a courteous, straightforward and respectful manner, acting professionally at all times.

Professionalism

1. In carrying on business, a dealer or salesperson shall not engage in any act or omission that would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming of a registrant.
2. In carrying on business, dealers and salespersons shall act with honesty, integrity and fairness.
3. Dealers and salespersons shall use best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a vehicle.
4. Dealers and salespersons shall provide conscientious service to their customers in the course of a trade in a vehicle and shall demonstrate reasonable knowledge, skill, judgment and competence in providing the services.
5. If:
 - a) a dealer enters into a contract to sell or lease a vehicle to a purchaser or lessee who is not another dealer;
 - b) the purchaser or lessee trades in another motor vehicle to the dealer under the contract or to another registered dealer under a separate contract; and
 - c) the dealer who receives the vehicle being traded in agrees to pay any outstanding loan on the vehicle or to pay any outstanding bill for the repair or storage of the vehicle

the dealer who receives the vehicle being traded in shall fulfil the obligations under the agreement described in clause (c).

Examples of Professionalism

1. Dealers and salespersons promptly, honestly and courteously respond to complaints made about them by other registrants, consumers or others.
2. Dealers and salespersons keep informed with respect to all matters essential to the conduct of business in the motor vehicle industry.
3. Dealers and salespersons cooperate with OMVIC representatives carrying out OMVIC's administrative activities including inquiries, inspections, investigations and discipline.
4. The obligations in example 3 apply whether the issue concerns that registrant, another registrant or any other person.
5. Dealers and salespersons sell or lease vehicles reasonably fit for the intended use that a consumer expressly or by implication makes known to the registrant. A vehicle may be considered not reasonably fit because it is not designed for the intended use, or because it has structural or mechanical defects.

6. Dealers ensure that all liens have been discharged prior to selling a motor vehicle to a purchaser.
7. Should a dealer sell a vehicle that has a lien on it, the dealer will:
 - a) Ensure that the lien is discharged;
 - b) Ensure that the lien holder has confirmed in writing that it no longer has a financial interest in the vehicle; or
 - c) Buy the vehicle back from the purchaser for an amount representing the current fair value of the motor vehicle, accounting for depreciation.
8. All contracts respecting motor vehicle transactions are to be in writing and disclose all terms and conditions, including the total amount of all payments made or received in relation to the sale or lease of a vehicle. After all terms and conditions have been filled out on the contract, every contract is signed by all parties to the contract and a signed, duplicate original copy of the contract is given to all parties to the contract.
9. All terms and conditions in contracts respecting motor vehicle transactions are set out clearly and in plain language. Disclosure statements are expressed clearly and concisely in a logical order and in a manner that is likely to bring the information to the attention of the purchaser.
10. Dealers and salespersons encourage consumers to read and understand the terms and conditions of all contracts before signing the contract.
11. Dealer employees are clear and truthful in describing vehicle features, benefits and prices, and in explaining products, services, programs and charges. They help customers to find a vehicle that best meets their needs and financial ability.
12. Dealers and salespersons comply with all the laws that govern the motor vehicle industry, including applicable parts of the following legislation:
 - a) *Motor Vehicle Dealers Act*;
 - b) *Consumer Protection Act*;
 - c) *Highway Traffic Act*;
 - d) *Human Rights Code*;
 - e) *Sale of Goods Act*;
 - f) *Environmental Protection Act*;
 - g) *Personal Property Security Act*;
 - h) *Repair and Storage Liens Act*; and
 - i) *Competition Act* (as it pertains to the advertising of motor vehicles).
13. Dealers and salespersons have knowledge of, and comply with the Code of Ethics. Registrants cannot create or enter into an agreement that negates any obligation under the Code of Ethics.
14. Dealers and salespersons do not knowingly do business with curbsiders.

15. Dealers and salespersons do not provide anyone who is not registered under the *Motor Vehicle Dealers Act* with access to dealer-only vehicle auctions (e.g., wholesale auctions).
16. Dealers and salespersons do not knowingly allow anyone, other than a registered salesperson, to be involved in negotiating or approving vehicle transactions or to provide information about specific vehicles that are for sale or lease. This would include such positions typically known as business managers, finance and insurance staff, leasing staff, sales staff and all sales and leasing managers.
17. Dealers and salespersons do not encourage or counsel anyone to break a contract already made with another dealer.
18. When leasing a used motor vehicle, registrants ensure that the vehicle has been inspected and that a Safety Standards Certificate (SSC) has been issued for that vehicle.
19. Registrants comply with the *Environmental Protection Act* with respect to the storage and disposal of waste material, and all laws in force in Ontario with respect to vehicle emissions, catalytic converters and abandoned motor vehicles.
20. Dealers and salespersons do not create, solicit, post or make available to the public any false, misleading or fictitious reviews, ratings, critiques, etc. of their own dealership, products, services or that of another dealership, their products or services.

Conclusion

These Standards of Business Practice have been created to help dealers and salespersons develop an understanding of the Code of Ethics, and the minimum standards that are required to ensure compliance with the Code. All registrants are encouraged to develop practices that exceed the expectations outlined here, thereby building consumer confidence, enhancing our industry's reputation, and creating a fair and level marketplace for all dealers.

6.08

Summary

The Code of Ethics is part of the MVDA. Simply, it is the law, and it requires dealers and salespeople to carry on business in accordance with the law and with integrity and honesty.

One major component of the Code of Ethics Regulations sets out the required disclosures in wholesale transactions (see Chapter 3). Ensuring dealers provide one another with proper disclosure will make it dramatically easier for dealers to provide the necessary disclosure to their customers.

Breaching the Code can have serious repercussions, including revocation of registration or a disciplinary hearing.

Test Yourself

REMEMBER:

The questions on the MVDA Key Elements Test are in multiple-choice format only. This manual, however, contains a variety of question formats to help you understand the content, such as activities, assignments, multiple-choice questions, true-false questions and fill-in-the-blank questions.



The first questions below are the same questions asked in “What Do You Know?” at the beginning of this chapter. Try answering these questions again and compare your results with your earlier answers.

Then, answer the additional questions.

1. True or False: The Code of Ethics Regulations are guidelines or “best practices” but do not have any real legal authority.
2. Dealers and salespeople are required to conduct business in accordance with the law and with (select all that apply):
 - a) Integrity
 - b) Honesty
 - c) Fairness
 - d) Passion
3. Failure to abide by the Code of Ethics Regulations can result in:
 - a) Revocation of registration
 - b) Refusal to grant or renew registration
 - c) A disciplinary hearing
 - d) All of the above
4. True or False: If the Discipline Panel decides that a dealer or salesperson failed to comply with the Code of Ethics Regulations, the committee may impose a maximum fine of \$10,000.
5. Other than a fine, what other penalties might the Discipline Committee impose?
6. True or False: An “order” of the OMVIC Discipline Committee is final and cannot be appealed.
7. Choose the *two* correct answers:
 - a) A salesperson must not do anything that causes the dealer to break the Code of Ethics Regulations
 - b) A salesperson must ensure that the dealer does not break the Code of Ethics Regulations
 - c) The dealer must ensure the salesperson complies with the Code of Ethics Regulations
 - d) While it is good to follow the Code of Ethics Regulations, this is not required by any law

Refer to Appendix 1 for the correct answers. Review the relevant section of the chapter for any question you answered incorrectly.

Answers to Questions in Chapters 1 through 6

Chapter 1

1. False
see 1.04
2. Any two of:
 - Have a business office (large enough to store records securely)
 - Have a clearly visible sign identifying registered name
 - Be approved for use as a dealership by municipality
 see 1.04
3. True
see 1.05
4. Any four points from 1.05 1.
5. d)
see 1.05
6. b)
see 1.05
7. Apply for and receive written authorization from OMVIC's Registrar.
see 1.05
8. b)
see 1.05
9. False
see 1.07
10. c)
see 1.07
11. False
see 1.08

Chapter 2

1. The mandatory "Sales Final" statement
see 2.04 19. or 2.05 17
2. Any four from 2.04.

3. A maximum distance that will be shown on the odometer at the time of delivery or a statement (initialled by the buyer) that there is no maximum.
see 2.04 9.
4. Any four from 2.05.
5. b)
see 2.05 22.
6. "As Is": The vehicle is not represented as being in road worthy condition, mechanically sound or maintained at any guaranteed level of quality. The vehicle may not be fit for use as a means of transportation and may require substantial repairs at the buyer's expense. It may not be possible to register the vehicle to be driven in its current condition. see 2.05 23.
7. d)
see 2.05 23.
8. False
see 2.05 23.
9. Any four from 2.08 4. – 11.
10. The agencies are:
 - OMVIC
 - Motor Vehicle Dealers Compensation Fund
 - CAMVAP
 see 2.04 20. – 21. or 2.05 18. – 19. or 2.06 8. – 9.
11. If there is no signed contract and a deposit or trade-in is given to the dealer, the purchaser can cancel the contract at any time and demand his or her deposit or trade-in back.
see 2.12

Chapter 3

1. Any three of:
 - Taxi
 - Limo
 - Police vehicle

- Emergency services vehicle
 - Daily rental (unless subsequently owned by someone other than a dealer)
see 3.06
2. Any three of:
 - Collision (greater than \$3,000 damage)
 - Fire
 - Flood
 - Structural damage or alterations
 see 3.06 5., 10. – 12.
 3. True
see 3.06 4.
 4. False
see 3.06 7.
 5. b)
see 3.06 8.
 6. b)
see 3.08
 7. False
see 3.06 9.
 8. False
see 3.06 18.
 9. e)
see 3.06 13. - 15., 22.
 10. b)
see 3.10
 11. Any two of:
 - Use a vehicle history report
 - Understand the strengths and weaknesses of the various vehicle history reports
 - Thoroughly examine the vehicles
see 3.08
 2. a)
see 3.07

Chapter 4

1. e)
see 4.06

2. True
see 4.05 or 4.12
3. True
see 4.05 or 4.12
4. c)
see 4.03 or 4.14
5. d)
see 4.03 or 4.14

Chapter 5

1. A “customer” is anyone who buys, leases or receives services from a dealer and may be an individual acting for personal, family or household purposes, an individual acting for business purposes (such as a sole proprietor) or a corporation.
A “consumer” also buys, leases or receives services from a dealer; however, a consumer is someone acting for personal, family or household purposes only, NOT an individual acting for business purposes or a corporation.
2. True
see 5.04
3. False
see 5.04
4. False
see 5.03
5. False
see 5.03
6. A maximum of two years less a day in jail and/or a fine of up to \$50,000
see 5.05
7. False
see 5.07
8. a), d)
see 5.09

9. Any three of the following (there may be others as well):

- Failing to disclose a “material fact” (e.g., not informing a customer of structural damage to the vehicle)
- Deceiving a customer by distorting a “material fact” (using exaggeration, hints or double meanings)
- Telling the customer the car can perform in a way that it cannot, or is still under a manufacturer’s warranty if it is not
- Saying the vehicle is of a particular model, style, quality or grade if it is not
- Telling the customer that the vehicle or a part is new (or unused) if it’s not
- Seriously understating the distance the vehicle has been driven or the amount of use it has had.
- Selling a repair, replacement, service or part that is not needed
- Saying there is a specific price advantage if this is not true (e.g., “The price will go up on Monday morning!”)
- The dealer or salesperson misrepresents the authority of some employee to negotiate the final terms of the agreement
- The dealer or salesperson misrepresents the purpose of an additional charge

10. Demonstrating a lack of conscience; taking advantage of a consumer who cannot adequately protect his or her own interests

see 5.09

11. a)

see 5.09

12. Any three of the following representations in which:

- The consumer cannot protect his or her own interests (perhaps because of a disability, illiteracy, impairment, etc.)
- The price grossly exceeds the price that should be charged
- The dealer or salesperson put too much pressure on the consumer
- The consumer has no possibility of meeting the payments

- This is an absolutely poor deal for the consumer (and is a one-sided, excellent deal for the dealer)
- The dealer or salesperson gave a misleading opinion and the consumer relied on that opinion to his or her detriment

13. Material fact is information that might affect a customer’s decision to purchase or lease the vehicle if he or she knew about it, or the price the customer would be willing to pay.

see 5.10

14. Any four from 5.12

15. Any four from 5.14

16. False

see 5.11

Chapter 6

1. False

see 6.03

2. a), b), c)

see 6.04 7.b)

3. d)

see 6.03

4. False (the maximum fine is \$25,000)

see 6.06

5. The Discipline Committee can also order:

- The dealer or salesperson to take further educational courses
- The dealer to pay for educational courses for its salespeople
- The dealer or salesperson to pay costs

see 6.06

6. False

see 6.06

7. a), c)

see 6.04

Resource List

Ontario Motor Vehicle Industry Council (OMVIC)

Administers and enforces the *Motor Vehicle Dealers Act* (MVDA). Maintains a fair and informed marketplace by ensuring registration of dealers and salespeople, inspecting dealers, staffing a complaint line for consumers and conducting investigations, disciplinary hearings and prosecutions.

65 Overlea Boulevard
Suite 300
Toronto, ON
M4H 1P1
Tel: 416-226-4500
Toll Free: 800-943-6002
General Fax: 416-226-3208
Registration Fax: 416-512-3701
Website: www.omvic.on.ca
Email: omvic@omvic.on.ca

Industry Associations

Associated Canadian Car Rental Operators (ACCRO)

A national association of daily vehicle rental operators.

8473 Regional Road 25, Unit 3
Milton, ON L9T 2X7
Tel: 905-864-8884
Toll Free: 800-361-3691
Fax: 905-864-8714
Website: www.accro.org
Email: info@accro.org

Canada Revenue Agency (CRA)

The Canada Revenue Agency administers the harmonized sales tax.
Website: www.cra.gc.ca

Canadian Automobile Dealers Association (CADA)

National association made up of auto dealers' associations representing franchise auto dealers across Canada.

85 Renfrew Drive
Markham, ON L3R 0N9
Tel: 905-940-4959
Toll Free: 800-463-5289
Fax: 905-940-6870
Website: www.cada.ca/content/index.cfm

Canadian Motor Vehicle Arbitration Plan (CAMVAP)

Toll Free: 800-207-0685
Website: www.camvap.ca

Canadian Finance & Leasing Association (CFLA)

National association of vehicle and equipment lessors and asset-based financing in Canada.

15 Toronto Street, Suite 301
Toronto, ON M5C 2E3
Tel: 416-860-1133
Toll Free: 877-213-7373
Fax: 416-860-1140
Website: www.cfla-acfl.ca

Trillium Automobile Dealers Association (TADA)

Representing franchise car dealers across Ontario.

85 Renfrew Drive
Markham, ON L3R 0N9
Toll Free: 1-800-668-6510
Fax: 905-940-6235
Website: www.tada.ca
Email: info@tada.ca

Used Car Dealers Association of Ontario (UCDA)

A not-for-profit association whose stated mission is “to enhance the image of the used vehicle industry.” Offers members services and information including mediation, educational and cost savings programs and representation with all levels of government.

230 Norseman Street
Toronto, ON M8Z 2R4
Tel: 416-231-2600
Toll Free: 800-268-2598
Fax: 416-232-0775
Website: www.ucda.org
Email: web@ucda.org

Ontario Government Resources and Information

Ontario Ministry of the Environment

Administers the Drive Clean program.

35 St. Clair Avenue West
Toronto, ON M4V 1P5
Tel: 416-325-4000
Toll Free: 800-565-4923
Fax: 416-325-3159
Website: www.ene.gov.on.ca

Ontario Ministry of Consumer Services

Protects, educates and serves Ontario consumers by ensuring a fair, safe and informed marketplace.

6th Floor, Mowat Block
900 Bay Street
Toronto, ON M7A 1L2
Tel: 416-327-8300
Toll Free: 1-877-655-0662
Website: www.sse.gov.on.ca

Ministry of Transportation (MTO)

Information on vehicle licensing issues and the *Highway Traffic Act*.

Toll Free: 800-268-4686
Website: www.mto.gov.on.ca

Information regarding ordering garage registers.

Tel: 416-235-3473
Toll Free: 800-373-5099
Email: ossdistribution@ontario.ca

Publications Ontario

Sale of Ontario government publications, including relevant acts and regulations.

Toronto Bookstore

777 Bay Street

Toronto, ON M5G 2C8

Tel: 416-585-7485

Toll Free: 800-668-9938

Ordering: 416-326-5300

Website: www.publications.serviceontario.ca

Online Access to Ontario Statutes and Regulations

Website: www.e-laws.gov.on.ca

Ministry of Revenue

Retail sales tax information, including how to obtain a vendor permit.

Tel: 866-ONT-TAXS (866-668-8297)

Website: www.rev.gov.on.ca

Service Ontario

Apply for government registrations or permits online, including HST number, vendor permit number and business name registration.

Website: www.serviceontario.ca

Summary of Acts

Competition Act

Sections of this federal act deal with business conduct and false advertising. For example, dealers cannot advertise that consumers have 100 cars to choose from when they only have 10. As well, businesses cannot participate in “price fixing” by agreeing to match prices with a competitor.

Consumer Protection Act, 2002 (CPA)

This act provides protection to consumers for most consumer transactions, including vehicle sales. It does not apply to wholesale or business-to-business sales.

The CPA includes rules as to repossession, disclosure of credit terms, false advertising, unfair practices and misrepresentation. It is administered by the Ministry of Consumer Services. The CPA came into effect on July 30, 2005, and repealed a number of statutes, including the *Business Practices Act* and the *Motor Vehicle Repair Act*.

Environmental Protection Act

This act imposes a number of requirements on vehicles and those who sell or repair them, whether registered under the *Motor Vehicle Dealers Act* or not. No one may expose for sale, advertise, offer to sell or sell a vehicle unless it complies with the regulations regarding emissions. Where a manufacturer has installed an emissions control device on a vehicle, no one may remove the device except for the purposes of repairing it, and no one may advertise, offer to sell or sell the vehicle unless the device is in good working order and the vehicle complies with the regulations.

The *Environmental Protection Act* also states that environmentally dangerous materials such as used oil, antifreeze and used parts must be disposed of in a responsible manner.

Ontario's Drive Clean Program

The Ontario Drive Clean program was introduced in April 1999. The program requires scheduled testing

of motor vehicles to ensure compliance with vehicle emission standards pursuant to regulations made under the *Environmental Protection Act*. The Ministry of the Environment administers the program.

Highway Traffic Act (HTA)

This act requires dealers to keep records of the purchase and sale of each vehicle in a standard-form garage register and to notify the Ontario Ministry of Transportation within six days of the purchase or sale of a motor vehicle or trailer. Requirements for vehicle registration, branding and Safety Standards Certificates are also covered under this act. The *Highway Traffic Act* is administered by the Ministry of Transportation.

Motor Vehicle Dealers Act, 1990

The MVDA 1990 is replaced by the MVDA 2002 (see below).

Motor Vehicle Dealers Act, 2002

The MVDA is a public protection statute that requires all motor vehicle dealers and salespersons to be registered and to meet high standards of honesty, integrity and financial responsibility. It replaced the MVDA 1990 and took effect on January 1, 2010.

Motor Vehicle Repair Act

The *Motor Vehicle Repair Act* was repealed as of July 30, 2005. Many of the provisions of this act were included in the CPA.

Ontario's Human Rights Code

The *Human Rights Code* gives Ontarians equal rights and opportunities without discrimination in areas such as jobs, housing and services. It provides the individual customer with a right to equal treatment with respect to the purchase of goods without discrimination because of his or her personal situation, including race, religion or sexual orientation. The customer is also entitled to the right of a contract on equal terms with all others. A breach of an individual's right to equal treatment can result in penalties being imposed on the dealer or salesperson, including a requirement to pay compensation to the individual.

Personal Information Protection and Electronic Documents Act

This federal act protects the individual customer from unauthorized use or disclosure of personal information. Information of a personal nature obtained from a customer by the dealer in carrying on its business cannot later be used for non-business purposes or provided to unauthorized parties.

Personal Property Security Act

This act sets out the procedure for registration of a lien. It also contains the rules for repossession of the vehicle by the lender if the monies owed are not repaid. Dealers must ensure all vehicles sold are free of liens. The *Personal Property Security Act* is administered by the Ministry of Consumer Services.

Repair and Storage Liens Act

This act is administered by the Ministry of Consumer Services. The *Repair and Storage Liens Act* (RLSA) provides repairers the ability to register a lien on a vehicle or, under certain conditions, sell the vehicle to recover the costs of unpaid repairs. If a vehicle has two liens on it, one under the *Personal Property Security Act* (PPSA) and the other under the RSLA, the lien holder registered under the RSLA is paid the amount owed before any payment to the PPSA lien holder.

Sale of Goods Act

This act states that every contract for sale of “goods” (which would include a new or used motor vehicle) includes certain implied warranties and conditions. These implied warranties and conditions state that every vehicle sold to a buyer must be fit for the buyer’s particular purpose, be of merchantable quality and be free of liens. The *Sale of Goods Act* also requires dealers ensure they have the right to sell the vehicle, thus ensuring that the buyer enjoys quiet possession.

Glossary

appeal: A formal process whereby a higher court (or an Appeals Committee) will re-examine a decision made by a lower court (or by a Tribunal, the Registrar or a Discipline Committee).

breach of contract: Failure to live up to conditions of a contract.

business premises: Generally does not include a “dwelling.”

Code of Ethics Regulations: Fall under the *Motor Vehicle Dealers Act*. Have the same effect as any other regulations under the MVDA.

Consumer Protection Act (CPA): The Ontario *Consumer Protection Act*.

class action: A lawsuit launched by one person who represents a larger group whose members have similar claims against the same defendant.

condition (in contract law): An essential requirement that must be fulfilled in order for a deal to go through. Every contract between a dealer and a buyer includes certain implied conditions that cannot be excluded. If a condition is breached, the customer can terminate the contract and sue for damages.

condition (of OMVIC registration of a dealer or salesperson): A stipulation; something that must be done, upon which something else depends. For example, the Registrar may approve the registration of a dealer on condition that the dealer complies with an arrangement made with the Ministry of Revenue regarding remittance of arrears of sales tax.

consignment: An owner (consignor) delivers a vehicle to a dealer (consignee) with instructions for its sale, and a fee is deducted from the proceeds of the sale. For the duration of a consignment, the consignor retains title and the consignee has possession until both title and the vehicle are delivered to a purchaser.

consumer: The consumer is an individual acting for personal, family or household purposes, and does NOT include an individual acting for business purposes. “Consumer” does NOT include a corporation. Not all customers are consumers, but all consumers are customers.

consumer transactions: Purchases by individuals of goods or services for personal use and not for resale or for business purposes.

contract: A legal agreement between two or more parties, each promising to fulfill certain obligations. Contracts for the sale or lease of motor vehicles must be in writing.

cooling-off period: A statutorily defined period during which buyers may change their minds and rescind a contract. There is no such cooling-off period when a vehicle is purchased from a motor vehicle dealer.

corporation: A legal entity created by or under the authority of the laws of a province or Canada. The corporation is distinct from the shareholders who comprise it.

curbsiders: Unlicensed dealers in the business of selling cars who pose as private sellers. Very often the cars they sell are misrepresented, accident-damaged, odometer-tampered, stolen or have liens.

damages: Money that is paid to compensate one person for a loss caused by another.

deposit: Money prepaid toward the purchase or lease of a vehicle with the full amount being due at a later date.

disclosure: The legal requirement to reveal all material facts to a customer in writing.

due diligence: Such a measure of prudence or activity as is properly expected from and ordinarily exercised by a reasonable and prudent person.

dwelling: Any premises, or part thereof, occupied as living accommodations.

employ (under the *Motor Vehicle Dealers Act*): To employ, appoint, authorize or otherwise arrange to have another person act on one’s behalf, including as an independent contractor.

extended warranty (under the *Motor Vehicle Dealers Act*): A contract whereby a person agrees to provide coverage of the costs associated with the repair or replacement of components of a motor vehicle, including the labour necessary to repair or replace those components, that is in addition to a warranty supplied by the manufacturer of the motor vehicle or a warranty supplied by law or implied by the operation of law.

false or misleading advertising: Promotional statements that are false or have the ability to mislead a consumer.

“force majeure”: A catastrophic event (e.g., theft, fire, flood) outside the control of the parties and that could not be avoided by the exercise of due care.

future performance agreement (under the *Consumer Protection Act*): A consumer agreement in respect of which delivery, performance or payment in full is not made when the parties enter the agreement.

garage register: A record of every car that is bought or sold through a dealer. Garage registers are required by law and are available from the Ministry of Transportation, and may be maintained electronically.

Gen. Reg.: Abbreviation for one of the *Motor Vehicle Dealers Act* General Regulations.

GST: The goods and services tax dealers must add to the net selling price of all cars they sell. Now included in the HST.

HST: (harmonized sales tax) A combination of provincial sales tax and goods and services tax.

hearing: A formal, legal proceeding where an independent adjudicator from the Licence Appeal Tribunal listens to appeals of the Registrar’s proposals to refuse, suspend or revoke a dealer’s registration.

implied term: A provision that may not be expressly included in a contract but that is necessary to give effect to the parties’ intention.

independent contractor: A person working for himself or herself who contracts to provide specific services to another.

Initial Disclosure Statement (IDS): A statement (required by the *Consumer Protection Act*) that must be given to a consumer when the dealer has agreed to assist the consumer with financing arrangements.

insolvency: The inability to meet financial obligations as they become due, or having insufficient assets to meet obligations.

lease: A secured arrangement whereby possession of the goods goes to the lessee, while the title to the goods remains with the lessor.

Lease Disclosure Statement (LDS): A statement (required by the *Consumer Protection Act*) that must be given to a lessee before the lease is entered into or any money paid.

Licence Appeal Tribunal (LAT): An independent tribunal that hears appeals of the Registrar’s proposal to refuse, suspend or revoke the registration of a dealer or a salesperson.

lien: Any claim on a vehicle as security for the payment of a debt. Dealers should register a lien whenever they are owed money for the purchase, sale or repair of a vehicle.

lien holder: The person who has registered a lien against a debt.

lien registration: The process of recording a security interest within the public registry system.

MTO: Ontario Ministry of Transportation.

material fact: A piece of information that, if known, could cause a reasonable person to change his or her mind about buying a particular vehicle (or would have a significant effect on the price the buyer would be willing to pay).

mediator: A neutral third party who facilitates discussion between parties to a dispute to encourage and assist their coming to an agreement; also known as a conciliator.

merchantable quality: Goods free from defects that, if known, would impact the price of the goods.

misrepresentation: A false statement of fact that persuades someone to enter into a contract or take some other action.

motor vehicle (under the *Motor Vehicle Dealers Act*): An automobile, truck or other vehicle propelled or driven otherwise than by muscular power, including a motorcycle, but not including a motorized snow vehicle or a farm tractor or other self-propelled machinery primarily intended for farming or construction purposes.

motor vehicle dealer (under the *Motor Vehicle Dealers Act*): A person who trades in motor vehicles, whether for the person's own account or the account of any other person, or who holds himself, herself or itself out as carrying on the business of buying or selling motor vehicles.

Motor Vehicle Dealers Act, 2002 (MVDA): Governs the business practices of Ontario motor vehicle dealers and salespersons. Although the Ministry of Consumer Services is responsible for the MVDA, OMVIC administers and enforces it on a day-to-day basis.

Motor Vehicle Dealers Compensation Fund: A fund that compensates consumers under specific circumstances.

MVDA: *Motor Vehicle Dealers Act, 2002*; legislation governing motor vehicle dealers and salespeople.

new motor vehicle (under the *Motor Vehicle Dealers Act*):

- a) A motor vehicle for which no permit has been issued under Section 7 of the *Highway Traffic Act* (or by another jurisdiction having an equivalent requirement to that section), or
- b) A motor vehicle that meets the following conditions:
 - i) The first permit for the vehicle issued under Section 7 of the *Highway Traffic Act* was issued to a buyer or lessee who purchased or leased

the vehicle, as the case may be, from a registered motor vehicle dealer.

- ii) The buyer or lessee did not take possession of the vehicle and the vehicle remained in the possession of the dealer until a new permit for the vehicle was issued under Section 7 of the *Highway Traffic Act* to the dealer within 14 days after the issuance of the first permit for the vehicle, but does not include a motor vehicle that has been used in a way for which a permit would have been required under Section 7 of the *Highway Traffic Act*.

officer (under the *Motor Vehicle Dealers Act*): Includes the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the corporation, or a partner or general manager and assistant general manager of a partnership, any other individual designated as an officer by bylaw or resolution or any other individual who performs functions normally performed by an individual occupying such office.

Ontario Motor Vehicle Industry Council (OMVIC): Ontario Motor Vehicle Industry Council; the body that administers and enforces the *Motor Vehicle Dealers Act*.

open-end lease: The customer returns the vehicle at the end of the lease and is responsible for the residual value of the vehicle; if there is a difference between the residual value of the vehicle and the price the lessor was able to sell the vehicle for at the end of the lease, the customer must pay or be paid the difference. (See "residual obligation lease.")

PST: The provincial sales tax that dealers must add to the net selling price of all cars they sell. Now included in the HST.

registrant: A motor vehicle dealer or salesperson who is registered under the *Motor Vehicle Dealers Act*.

Registrar: The person at OMVIC who is in charge of registering dealers and salespeople. The Registrar is also responsible for issuing notices of proposal to refuse, revoke or suspend a registration.

Regulations: An act (such as the *Motor Vehicle Dealers Act*, the *Consumer Protection Act* and the *Highway Traffic Act*) has Regulations that set out the detailed requirements of that act; the Regulations set out the rules under the act. The Regulations are part of the law.

Regulations (under the *Motor Vehicle Dealers Act*): There are two sets of regulations:

- a) The General Regulations (in this workbook the reference to such a regulation may be abbreviated as “Gen. Reg.”); and
- b) The Code of Ethics and Operation of Committees Regulations (in this workbook the reference to such a regulation may be abbreviated as “Code of Ethics Regulation” or “Code of Ethics Regulation”).

representation (under the *Consumer Protection Act*): A representation, claim, statement, offer, request or proposal that is or purports to be:

- a) Made respecting or with a view to the supplying of goods or services to consumers; or
- b) Made for the purpose of receiving payment for goods or services supplied or purporting to be supplied to consumers.

representative lease (under the *Consumer Protection Act*): A “representative lease” fairly depicts a range of leases to which a lease advertisement applies.

rescission: The cancellation of a contract that results in the parties being returned to their pre-contractual position.

residual obligation lease (under the *Consumer Protection Act*): A lease under which the lessor may require the lessee at the end of the lease term to pay the lessor an amount based in whole or in part on the difference, if any, between:

- a) The estimated wholesale value of the leased goods at the end of the lease term
- b) The realizable value of the leased goods at the end of the lease term (see “open-end lease”)

retail sales tax: The provincial sales tax that dealers must add to the net selling price of all cars they sell. Now included in the HST.

Safety Standards Certificate (SSC): The certificate issued when a used vehicle has been inspected by a licensed facility and meets the minimal safety standards set by the Ministry of Transportation. In most cases a vehicle must have a certificate in order to be transferred and plated.

Sale of Goods Act: Requires that vehicles sold are of “merchantable quality” and “fit for purpose,” and that the buyer receives “quiet possession.” This act does not cover leases or vehicle repairs.

sales agreement: See “contract.”

salesperson (under the *Motor Vehicle Dealers Act*): An individual employed by a dealer to trade in vehicles on behalf of the dealer.

service plan (under the *Motor Vehicle Dealers Act*): A contract that is sold to a buyer or lessee of a vehicle by a dealer or through a dealer before the vehicle is delivered to the buyer or the lessee, as the case may be, whereby a person agrees to provide goods or services to alter or maintain the vehicle, whether the goods or services are provided before the vehicle is so delivered or afterwards.

sole proprietorship: An individual carrying on business alone.

spouse (under the *Motor Vehicle Dealers Act*):

A person:

- a) To whom the person is married, or
- b) With whom the person is living outside marriage in a conjugal relationship, if the two persons:
 - i) Have cohabited for at least one year;
 - ii) Are together the parents of a child; or
 - iii) Have together entered into a cohabitation agreement under Section 53 of the *Family Law Act*.

statute law: A law passed by the provincial legislature or by the federal parliament.

supplier (under the *Consumer Protection Act*):

A person who is in the business of selling, leasing or trading in goods or services or is otherwise in the business of supplying goods or services, and includes an agent of the supplier and a person who holds himself or herself out to be a supplier or an agent of the supplier.

TKU: True kilometres unknown; this abbreviation is specifically prohibited by OMVIC, since most customers do not understand its meaning.

TMU: True mileage unknown; see “TKU.”

trade (under the *Motor Vehicle Dealers Act*):

Includes buying, selling, leasing, advertising or exchanging an interest in a motor vehicle or negotiating or inducing or attempting to induce the buying, selling, leasing or exchanging of an interest in a motor vehicle (and “trade” when used as a noun has a corresponding meaning).

Tribunal (under the *Motor Vehicle Dealers Act*):

The Licence Appeal Tribunal.

unconscionable transaction: A grossly unfair practice in which a business takes advantage of a consumer.

used motor vehicle (under the *Motor Vehicle Dealers Act*):

- a) A motor vehicle for which a permit has been issued under Section 7 of the *Highway Traffic Act* (or by another jurisdiction having an equivalent requirement to that section), or
- b) A motor vehicle that has been used in a way for which a permit would have been required under Section 7 of the *Highway Traffic Act*, but does not include a motor vehicle if:
- c) The first permit for the vehicle issued under Section 7 of the *Highway Traffic Act* was issued to a buyer or lessee who purchased or leased the vehicle, as the case may be, from a registered motor vehicle dealer, and,

- d) The buyer or lessee did not take possession of the vehicle and the vehicle remained in the possession of the dealer until a new permit for the vehicle was issued under Section 7 of the *Highway Traffic Act* to the dealer within 14 days after the issuance of the first permit for the vehicle.

Used Vehicle Information Package (UVIP): Available from the Ministry of Transportation, a UVIP includes a description of the vehicle, names of previous owners and a list of liens (in Ontario only) against the car. Private sellers must provide a UVIP package to a buyer. Dealers do not have to provide UVIPs.

valid contract: An agreement legally binding on both parties.

vehicle identification number (VIN): A unique 17-digit code assigned to all vehicles in North America. VINs are used to register the vehicle, search for liens or research the vehicle’s history.

vendor’s permit: The permit a dealer receives from the Ministry of Finance when they register for the retail sales tax. A vendor’s permit exempts dealers from paying PST on cars they plan to resell.

void contract: An agreement that has been cancelled or is not legally binding.

warranty: A guarantee. Every contract between a dealer and a buyer includes certain implied warranties that cannot be excluded.

wholesalers: Dealers who sell and buy vehicles to and from other registered dealers.

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