



AUTOMOTIVE
BUSINESS SCHOOL
of Canada
- EST. 1985 -



STUDENT MANUAL
2026 EDITION



Automotive Certification Course **STUDENT MANUAL**

Laws, Regulations and Practices

2026 Edition
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at Georgian College in collaboration with OMVIC.

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



WELCOME TO THE AUTOMOTIVE CERTIFICATION COURSE

Since 1999, the Ontario Motor Vehicle Industry Council (OMVIC) and Georgian College's Automotive Business School of Canada have offered the Automotive Certification Course. All new dealers and salespeople in Ontario have to take this course. It was the first course for dealers and salespeople in Canada to be mandatory.

This is the manual for the course. It's divided into 18 chapters with review questions at the end of each chapter. The questions will help you remember what you've read and apply what you've learned. You'll find the answers in Appendix 1.

There are different types of review questions, such as multiple choice, true-false and fill in the blank, as well as activities and assignments. However, the questions on the Automotive Certification Test are only multiple choice.

Study and complete the test

After registering for the course, you have **12 weeks** to learn the course material and pass the Automotive Certification Test. You need a minimum grade of **80 percent** to pass the test.

You can choose to take the Automotive Certification Test online or in person, but you can only take it once. The email you got when you registered for the course tells you all about taking the test.

If you don't complete the test within 12 weeks or if you don't get the minimum passing grade, your registration in the course will end. If you want to retake the test, you will need to register for the course again and pay the full registration fees.

Register separately with OMVIC

Enrolling in this course doesn't automatically register you with OMVIC. The email you get when you pass the Automotive Certification Test also tells you how to register with OMVIC as a dealer or salesperson.

You can find more details about registration requirements on the OMVIC website at **www.omvic.ca**

Become a registered dealer or salesperson

Once you pass the Automotive Certification Course and are registered with OMVIC, you'll be able to use the designation "C.A.L.E. – Certified in Automotive Law and Ethics."

Most dealers and salespeople work hard to serve and meet the needs of customers, but 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.

FAST FACTS

- All new automotive dealers and salespeople in Ontario have to take this course.
- You have 12 weeks to take the course and pass the test with a grade of 80% or more.
- You have to apply to OMVIC to be registered as a dealer or salesperson.
- Using the C.A.L.E. designation builds trust with consumers.

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CHAPTER 1

Introduction to the course

- 1.01 Learning objectives
- 1.02 The *Motor Vehicle Dealers Act* (MVDA)
- 1.03 OMVIC's role and responsibilities
- 1.04 Collecting transaction fees
- 1.05 Overseeing dealer advertising
- 1.06 Appointing a receiver and manager
- 1.07 Protecting confidentiality
- 1.08 Making information public
- 1.09 Summary
- 1.10 Definitions
- 1.11 Test yourself



1.01 Learning objectives

This chapter will give you an overview of the law that auto dealers and salespeople in Ontario must follow (the *Motor Vehicle Dealers Act*), and the agency that enforces the law (Ontario Motor Vehicle Industry Council). You'll get a brief introduction to the topics below, which will be covered in more detail in later chapters:

- OMVIC's role
- Motor Vehicle Dealers Compensation Fund
- OMVIC Transaction Fee Program and which vehicles/transactions it applies to
- OMVIC's authority over dealer advertising
- OMVIC's authority to appoint a receiver and manager
- OMVIC's responsibility for confidentiality
- Specific information that OMVIC must make available to the public

Introduction to the course

1.02 The *Motor Vehicle Dealers Act* (MVDA)

The *Motor Vehicle Dealers Act* (MVDA) is the law that governs the retail automotive industry in Ontario. It sets out the rules that dealers and salespeople must follow. The Act is general, but it has two sets of detailed Regulations or rules:

- General Regulations (Ontario Regulation 333/08)
- Code of Ethics and Operation of Committees Regulations (Ontario Regulation 332/08) (often shortened to Code of Ethics)

1.03 OMVIC's role and responsibilities

The Ontario Ministry of Public and Business Service Delivery has made the Ontario Motor Vehicle Industry Council (OMVIC) responsible for enforcing the MVDA to make sure automotive sales are fair and customers have all the information they need. OMVIC does this by:

- Registering dealers and salespeople
- Regularly inspecting dealers
- Receiving and investigating complaints from consumers – that is, people buying for personal, not business, purposes (see Chapter 13 for more about consumers)
- Disciplining and prosecuting dealers and salespeople who don't follow the regulations
- Administering the Motor Vehicle Dealers Compensation Fund

OMVIC also works to improve professionalism in the industry and make sure there is fair, honest and open competition for all registered dealers.

Motor Vehicle Dealers Compensation Fund

A sum of money set aside to give to consumers to make up for losses under certain specific circumstances. See Chapter 12 for more information.

OMVIC board of directors

OMVIC is governed by a nine-member board made up of three members elected from the motor vehicle dealer industry, three from the general public and three appointed by the Minister of Public and Business Service Delivery.

1.04 Collecting transaction fees

It is costly for OMVIC to carry out its role and responsibilities. The Transaction Fee Program helps cover these costs.

How the Transaction Fee Program works

- Dealers must give OMVIC a transaction fee for each vehicle they sell or lease – including fleet and as-is transactions
- Dealers pay the fees; salespeople do not pay fees
- Dealers give the fees to OMVIC once a year when they renew their registration
- Dealers can charge the fee to the customer, if they choose to
- Visit www.omvic.ca for more information about the current transaction fee



New car dealers and leases

New car dealers must pay the transaction fee for leases on behalf of the leasing companies (lessors) that car manufacturers work with (sometimes called “captive lessors”). They pay the fee whether the car being leased is new or used. New car dealers can charge customers the transaction fee, if they choose.

Independent lessors must pay the fee to OMVIC themselves.

Transactions that are exempt from the fee

Dealers do not have to pay the transaction fee when:

- Selling or leasing a vehicle directly to another registered dealer
- Selling a vehicle to a lessee during or at the end of a lease term
 - This is because the fee was already paid when the customer leased the car
 - This also applies if the customer re-leases the same car as a way of financing the lease buyout

1.05 Overseeing dealer advertising

Dealers aren’t allowed to make a false, misleading or deceptive statement in any advertisement, circular, pamphlet or material published in any way. If they do, OMVIC may issue an “advertising order.” The order may require the dealer to both:

- Stop the advertisement immediately
- Retract (take back) the information or publish a correction

After getting an advertising order, a dealer:

- Must follow the order immediately, even if they appeal the order to the Licence Appeal Tribunal (LAT)
- May be told to submit all advertising to OMVIC to approve before publishing for up to two years
- Will be shown on the OMVIC website in a list of dealers who got a false advertising order

License Appeal Tribunal (LAT)

The LAT is an independent panel that considers appeals of the Registrar’s proposal to refuse, suspend or revoke (cancel) a dealer’s or salesperson’s OMVIC registration. See Chapter 2 for more information.

FAST FACTS

- The *Motor Vehicle Dealers Act* (MVDA) is the law that governs the retail automotive industry in Ontario.
- The Ontario Motor Vehicle Industry Council (OMVIC) administers and enforces the MVDA.
- Dealers give OMVIC a transaction fee for each vehicle they sell or lease. They can charge this back to the customer.
- Dealers can’t put misleading information in their ads. If they do, OMVIC can discipline them.

Introduction to the course

1.06 Appointing a receiver and manager

In very serious situations, OMVIC may ask the court to appoint a “receiver and manager” to take control of a dealership. They might do this if:

- The dealership is about to go out of business
- OMVIC is considering revoking (cancelling) the dealer’s registration
- OMVIC is about to make a “freeze order”

Freeze order

In extreme situations, OMVIC may issue an order to freeze a dealer’s assets or trust funds. They only do this when customers and the public need protection, such as after a search order has been issued or a criminal case has started. OMVIC can make the freeze order without telling the dealer first.

1.07 Protecting confidentiality

OMVIC and its employees must keep information they collect private and not share it with anyone, except:

- As required by the MVDA and Regulations
- To a government ministry or agency that protects consumers
- To a law enforcement agency, such as the police

1.08 Making information public

OMVIC must make the following information available to protect the public:

- Contact information
 - Dealer’s name, business address and phone number
 - Salesperson’s name and the dealer they are registered with

- Registration information
 - The class or classes a dealer is registered in
 - Dealers and salespeople whose registration has been or may be refused, revoked or suspended
 - Conditions that have been or may be placed on a dealer’s or salesperson’s registration
- Disciplinary information
 - Dealers, salespeople and others associated with a dealership who have been charged with or found guilty of an offence as a result of information from OMVIC
 - Advertising orders and orders related to not following the Code of Ethics (see Chapter 17)
- Any other information about a dealer, salesperson or others associated with a dealership that OMVIC thinks could help protect the public

1.09 Summary

The MVDA is the law that governs the retail automotive industry in Ontario. It has two sets of regulations dealers and salespeople must follow: the General Regulations and the Code of Ethics and Operation of Committees Regulations.

OMVIC has been delegated responsibility for administering and enforcing the *Motor Vehicle Dealers Act* (MVDA).



1.10 Definitions

appeal: a formal process where a higher court or Appeals Committee will have a second look at a decision made by a lower court, tribunal, Registrar or Discipline Committee. The appeals court or committee may keep (uphold) the original decision or reject (overturn) it.

condition of OMVIC registration: something a dealer must do in order to keep their registration. For example, if a dealer's registration is conditional on paying taxes they owe, that means they must pay the taxes or their registration will be cancelled.

false or misleading advertising: promotional statements that are untrue or could give people the wrong idea.

motor vehicle: a car, truck or other vehicle driven under mechanical, not muscular, power. Includes motorcycles but not snow vehicles, tractors or machinery mainly intended for farming or construction.

motor vehicle dealer (under the MVDA): a person who buys and sells motor vehicles, whether on their own or on behalf of someone else, or who says they buy or sell motor vehicles.

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

regulations: as part of an act of law (such as the MVDA or *Consumer Protection Act*), the regulations are the rules that the act creates and that are part of the law.

salesperson (under the MVDA): someone employed by a dealer to buy and sell vehicles on behalf of the dealer.

FAST FACTS

- OMVIC has the power to have a “receiver and manager” take over a dealership, or to freeze a dealership’s assets, in certain situations.
- OMVIC must keep most information it collects private. However, it must make some specific information public.

 NOTES

CHAPTER 1

1.11 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. What is the main law that regulates Ontario's retail automotive industry?
2. Which agency enforces the MVDA?
 - a. Ministry of Public and Business Service Delivery
 - b. MVRO
 - c. OMVIC
 - d. Automotive Business School of Canada
3. List three things OMVIC does.
4. Briefly explain the Transaction Fee Program.
5. True or false: Dealers must give a transaction fee to OMVIC for each vehicle they sell or lease.
6. True or false: The transaction fee can be charged to the customer.
7. Which of the following information must OMVIC make available to the public?
 - a. A dealer's business name, address and phone number
 - b. A salesperson's name
 - c. That a dealer's or salesperson's registration has been or may be refused, revoked or suspended
 - d. All of the above
8. If OMVIC finds that a dealer's advertising is false or misleading, what can they do to stop or fix it?
9. If a dealer gets a false advertising order, how long can OMVIC require them to get pre-approval for their ads?
10. List two possible situations that could cause OMVIC to apply to the court to appoint a "receiver and manager" to assume control of a dealership.

FAST FACTS

- Questions on the Automotive Certification Test are all multiple choice. This manual has different types of review questions to help you understand the material.



CHAPTER 2

Registration of dealers and salespeople

- 2.01 Learning objectives
- 2.02 Introduction
- 2.03 Dealer registration
- 2.04 Who must take the Automotive Certification Course?
- 2.05 Salesperson registration
- 2.06 Unregistered salespeople
- 2.07 Certificate of Registration
- 2.08 Refusal of registration
- 2.09 “Interested and associated persons”
- 2.10 Appeal process
- 2.11 Reapplying for registration
- 2.12 Who doesn’t have to register with OMVIC?
- 2.13 Renewing registration online
- 2.14 Classes of dealers
- 2.15 Notifying OMVIC of changes
- 2.16 Summary
- 2.17 Definitions
- 2.18 Test yourself



2.01 Learning objectives

After completing this chapter, you will understand:

- OMVIC’s registration process for dealers and salespeople
- Why registration may be refused
- Who OMVIC considers an ‘interested person’
- OMVIC’s reapplication process
- Responsibility to display certificates of registration and/or have them available
- Registration revocation or refusal and the role of the Licence Appeal Tribunal
- People or organizations that don’t have to register with OMVIC
- Classes of dealers (and definitions)
- Responsibility to tell OMVIC about changes to registration information

Registration of dealers and salespeople

2.02 Introduction

All motor vehicle dealers and salespeople in Ontario must register with OMVIC. Registration is valid for two years for salespeople and one year for dealers and then they must renew.

OMVIC does a number of background checks on applicants and screens them to be sure they meet the requirements of the MVDA. New applicants must also give OMVIC Canada-wide criminal record search results and complete the Automotive Certification Course. Applicants must give OMVIC complete and true information on their application forms. It can delay the process if OMVIC has to ask for more details or clarifications.

These steps help make sure everyone entering the industry will follow the law and will act with honesty, integrity and in a financially responsible way – all of which are requirements of the MVDA.

If a new applicant doesn't meet the requirements of the MVDA, OMVIC isn't allowed to register them. The OMVIC Registrar can refuse the application without further explanation. If the Registrar wants to refuse an application for any other reason, they must give the applicant a written explanation.

If a registered dealer or salesperson doesn't follow the requirements of the MVDA, they may face charges, disciplinary action or have their registration revoked (cancelled).

2.03 Dealer registration

To apply for or renew an application as a dealer, the person must:

- Pay the required fee
- Be 18 or older
- Not be in default of retail sales tax
- Not owe money to the Motor Vehicle Dealers Compensation Fund
- Have completed the Automotive Certification Course

Other conditions of dealer registration

If the applicant is registered as a dealer in another province or country, they will be registered as an Outside Ontario Dealer.

If a dealer has more than one location, their registration will list all their authorized places of business.

To register, a dealer must name a "person in charge" of the dealership. If a dealer is renewing their registration and the previously listed person in charge has left, they have to name a new person in charge in order to renew.

2.04 Who must take the Automotive Certification Course?

The person in charge of the dealership must have completed the Automotive Certification Course.

Depending on how the business is registered, different people must take the course. If the dealership is registered as:

- **Sole proprietorship** – the sole proprietor must complete the course
- **Partnership** – one partner must complete the course
- **Corporation** – at least one officer or director must complete the course
- **All dealerships** – any other person in charge of the business on a day-to-day basis must complete the course

In all these situations, if the person in charge has been in charge of the day-to-day operations of a dealership for at least two years since January 1, 2007, they don't have to complete the course (they are exempt), although it is highly recommended.

Note: Lease Finance Dealers and Fleet Lessors are exempt from taking the course.

2.05 Salesperson registration

Before starting any discussion or negotiation with a possible buyer, seller or lessee of a vehicle, a salesperson must be registered with OMVIC – even if the salesperson isn't signing the deal.

Salespeople register by completing an Individual Application form, available from dealers and from OMVIC. Both the salesperson and the dealer they work for are responsible for making sure the salesperson is registered.

To apply for or renew an application as a salesperson, the person must:

- Pay the required fee
- Have completed the Automotive Certification Course
- Be employed as a salesperson by a registered dealer

A salesperson who completed the course in the past but has been out of the industry for two years may have to take the course again.

Other conditions of salesperson registration

A salesperson can work for more than one dealer, as long as each dealer gives their written permission to OMVIC.

If a salesperson stops working for a dealer, both the salesperson and dealer have to tell OMVIC and explain why the salesperson left. The salesperson's registration expires when their employment ends.

If the salesperson goes to work for a different dealer before the expiration date on their certificate of registration, they can submit a Salesperson Change Application to OMVIC. If OMVIC approves, then the salesperson's registration expiry stays the same as shown on the certificate.

Who else has to be registered as a salesperson?

Anyone who signs a motor vehicle sale or lease agreement on behalf of a dealer must be registered.

Business managers, finance managers, insurance managers and anyone who buys vehicles at auction must be registered.

An officer or director of a corporate dealership, or a partner in a registered dealership, must be separately registered as a salesperson to sell or lease vehicles on behalf of the dealer.

FAST FACTS

- The minimum fine for an unregistered dealer or salesperson (also called a curbsider) is \$5,000.
- When they register, a dealer has to name a person in charge of the dealership.
- Depending on how the dealership is registered as a business, different people are required to take this course.
- A person has to be employed by a dealer to register with OMVIC as a salesperson.

Registration of dealers and salespeople

2.06 Unregistered salespeople

Dealers are responsible for making sure all their salespeople are registered with OMVIC. The most common reasons OMVIC finds unregistered salespeople at dealers are:

- Salesperson has told the dealer they are registered when they aren't
- Application has been completed but not sent in to OMVIC (either by the dealer or the salesperson)
- Dealer hasn't checked if the application was approved before letting the salesperson work

A dealer should put a responsible person in charge of making sure all salespeople are registered. This person should complete the Automotive Certification Course. The best choice would be someone in charge of the sales staff who is involved in making hiring decisions. Their responsibilities should include:

- Checking with OMVIC that salespeople are registered. This can be done on OMVIC's website
- Submitting a Salesperson Change Notice to OMVIC, if they hire a salesperson who is already registered
- Submitting a Salesperson Change Notice if a salesperson leaves the dealership, and telling OMVIC if the salesperson is leaving because of issues that might mean they would not qualify for registration
- Making sure an Individual Application is submitted to OMVIC for unregistered salespeople
- Signing all applications and notices related to salespeople on behalf of the dealer. OMVIC will send information about applications and notices to the person who signed them
- Making sure salespeople get their registration certificates and following up with OMVIC if not. A copy of the certificates must be kept in the dealer's records
- Keeping track of registration expiry dates and making sure renewal applications are submitted on time

- Making sure no one acts as a salesperson until the dealer has confirmation of registration from OMVIC

A dealer should know a salesperson's history before deciding to sponsor them for registration. To make sure they know all the information on the application, it's a good idea for someone other than the salesperson to submit a registration application to OMVIC.

2.07 Certificate of registration

Dealers

Dealers must post their certificate of registration where the public can see it in each of their registered business locations. They must carry a copy when doing dealer activities and show it to anyone who asks.

This doesn't apply to an Outside Ontario Dealer, a Lease Finance Dealer or Fleet Lessor. They must keep their certificate in their place of business and show it to anyone who asks.

Salespeople

Dealers must keep a copy of each salesperson's registration certificate at the business location where the salesperson works and show it to anyone who asks.

When doing dealer duties, a salesperson must carry their certificate and show it to anyone who asks.

2.08 Refusal of registration

OMVIC's Registrar can refuse a registration application if they believe a dealer or salesperson:

- Won't do business in a financially responsible way
- Has done things in the past that show they aren't likely to follow the law or do business with integrity and honesty
- Has put false information on their application
- Hasn't met the terms and conditions of registration

OMVIC can refuse a corporation's registration if the Registrar believes:

- The corporation won't do business in a financially responsible way, based on:
 - Its financial position, or
 - The financial position of its officers/directors
- The corporation's officers/directors have done things in the past that show they aren't likely to follow the law or do business with integrity and honesty
- An officer/director of the corporation has put false information on an application
- The corporation hasn't met the terms and conditions of registration

2.09 "Interested and associated persons"

OMVIC can also refuse, revoke or suspend the registration of a dealer, salesperson or corporation if the financial responsibility or past actions of an "interested person in respect of the applicant/registrant" gives reasonable grounds for it.

Interested persons

OMVIC considers someone an "interested person" if, in OMVIC's opinion, the person:

- Benefits from or may benefit from the business
- Has or may have control (directly or indirectly) over the dealer or salesperson
- Has given or may have given financing (directly or indirectly) to the business

An "interested person" would include an "associated person," as described below.

Associated persons

One person is associated with another person in any of the following situations:

- One party is a corporation of which the other person is an officer/director. Officer/director includes anyone who carries out the duties normally done by an officer/director
- One person is in a partnership of which the other person is a partner
- Both people are partners of the same partnership
- One party is a corporation that the other party controls directly or indirectly

FAST FACTS

- Dealers have to make sure all their salespeople are registered.
- Certificates of registration for both dealers and salespeople have to be available for customers to see.
- OMVIC can also suspend a registration if the dealer or salesperson has done something that's prohibited by the MVDA and puts the public at risk. OMVIC can revoke (cancel) a registration after investigating the reason for the suspension, or for another serious reason.
- OMVIC can refuse a registration if the Registrar believes someone associated with the dealer, salesperson or corporation is not financially responsible.

Registration of dealers and salespeople

- Both parties are corporations, and one corporation is controlled directly or indirectly by the same person who controls the other corporation directly or indirectly
- Both people are members of the same voting trust relating to shares of a corporation
- Both people are associated with the same person in one of the ways described above. Officer/director includes anyone who carries out the duties normally done by an officer/director

2.10 Appeal process

In order to refuse, revoke or refuse to renew a registration, OMVIC must first issue a “proposal.” The proposal is a written notice that says OMVIC intends to refuse or revoke a registration and explains why.

When a dealer, salesperson or other person receives a proposal to revoke or refuse their registration, they can appeal it to the Licence Appeal Tribunal within 15 days.

Licence Appeal Tribunal

The Licence Appeal Tribunal (LAT) is completely independent from OMVIC. Its purpose is to review proposals from OMVIC.

Someone who receives a proposal has 15 days to appeal it – that is, ask the LAT to have a second look at it. If the person doesn’t appeal, the proposal is carried out and the registration is refused or revoked.

If the person does appeal, the LAT will hold a hearing to listen to evidence (proof of facts) and testimony (statements from the people involved) about the proposal and then will give their decision in writing. Their decision may tell the OMVIC Registrar to go ahead with revoking or refusing the registration, to make changes to the proposal or to set it aside entirely.

Sometimes, the LAT may put conditions on a registration. For example, they may say a salesperson can’t be an officer of the dealer’s business, or that a dealer has to do what a government ministry has asked them.

Temporary suspension

If the Registrar thinks it’s in the public interest, they can order a temporary suspension that takes effect right away, instead of issuing a proposal. The person whose registration is suspended can appeal to the LAT. The suspension expires 15 days after the LAT gets a written request for a hearing (a chance to be heard), but if the LAT starts the hearing before the suspension expires, they can choose to extend it.

2.11 Reapplying for registration

A dealer or salesperson whose registration was revoked or suspended can reapply for registration if they meet both these conditions:

- It’s been two years since the registration was refused or revoked
- New information shows the circumstances have changed

2.12 Who doesn’t have to register with OMVIC?

Some people or businesses are exempt from registration (don’t have to register with OMVIC), such as wholesale auctions, wreckers and car rental agencies. See section 2.17 Definitions for a list of exemptions.

2.13 Renewing registration online

Dealers and salespeople can renew registration and pay all fees, including transaction fees, online or by mail.

Dealers and salespeople can register for an online account by clicking Registrant Login on the OMVIC website, and entering their registration number, name, date of birth and the email address OMVIC has on file.

Online accounts for dealerships

Dealerships must name a dealer administrator (DA) to manage their online account. This can be the dealer or another staff member (e.g. controller, office manager, payroll manager) and the DA doesn't have to be registered with OMVIC.

Naming a dealer administrator

The person who is naming a DA must be on file with OMVIC as having one of the following roles at the dealership:

- Person in charge
- Officer
- Director
- Owner
- Partner
- General manager

After activating an online account, the person naming the DA can log in, go to the Dealer Management tab and enter the following information about the DA:

- First and last name as it appears on their driver's licence
- Date of birth
- Personal email address

If the DA is someone other than the person who created the online account, they'll get an email asking them to confirm and activate their own account.

What can a dealer administrator do?

A DA can use the online account to:

- File the dealership's registration renewal
- Pay renewal fees and transaction fees
- Review registration renewal requests submitted online by salespeople
- Review transaction and renewal request history
- Subscribe to notifications for both the dealer and salespeople (e.g. application is approved, registration has expired)

Even if a salesperson doesn't register for OMVIC's online services, the DA can still get notifications about the salesperson's registration.

FAST FACTS

- Someone who receives a proposal to revoke or refuse their registration can appeal to the Licence Appeal Tribunal.
- There are a number of people and businesses that are exempt from registering with OMVIC.
- Dealers and salespeople can manage their registrations and notifications through the OMVIC website.
- Officers, directors, owners and partners of the dealership have access to file **all** applications and notices online.

Registration of dealers and salespeople

The DA can't:

- Submit a renewal application on behalf of a salesperson
- Act as a dealer or salesperson, unless they are registered
- See or submit any of the following applications:
 - Business Deactivation Notice
 - Business Change Notices (amalgamation, legal/business name change, address change and add/remove individuals)
 - Other applications that can only be submitted by an officer, director, owner or partner of the dealership (e.g. class change application, branch application, etc.)

2.14 Classes of dealers

Dealers can register in the following classes and subclasses:

- General Dealer in the following subclasses
 - New and Used motor vehicles
 - Used motor vehicles
- Broker
- Wholesaler
- Exporter
- Outside Ontario Dealer
- Lease Finance Dealer
- Fleet Lessor
 - Commercial Lessor subclass
 - Short-term Lessor subclass

A General Dealer, Broker and Outside Ontario Dealer can only register in one class. All other dealers can register in more than one class.

Descriptions of classes

General Dealer (New and Used subclass): Buys, sells or trades in both new and used vehicles. If the dealer isn't a member of the Motor Vehicle Retailers

of Ontario (MVRO), they must show a copy of the sales and service agreement in order to be assigned to this class.

General Dealer (Used subclass): Buys, sells or trades in only used vehicles. Generally applies to any dealer who isn't a new car dealer and doesn't fit any other category.

Broker: Arranges to buy, sell or trade in a vehicle on behalf of someone who isn't a dealer. The broker doesn't own or take possession of the vehicle, and doesn't handle the money to pay for it.

Outside Ontario Dealer: Registered outside Ontario and buys vehicles from exempt wholesale auctions to export them to the place where the dealer is registered.

Wholesaler: Buys, sells or trades in vehicles only with other registered dealers, which can include dealers registered outside Ontario.

Exporter: Only buys vehicles to export them outside Ontario.

Lease Finance Dealer: Can't be associated with a General Dealer, unless the reason that they're associated is that the Lease Finance Dealer and General Dealer are both associated with the same other person who is exempt from the MVDA.

A Lease Finance Dealer can only:

- Buy motor vehicles
- Lease a vehicle to a lessee if:
 - The lease is made through a General Dealer, and
 - The lease is for 120 consecutive days or more
- Sell a previously leased vehicle:
 - Directly to the lessee or their partner (if the lessee is a partnership)
 - Through a General Dealer to the lessee and person who drove the vehicle during the lease term or the lessee's partner (if the lessee is a partnership)
 - To a registered dealer

- At an auction where:
 - The person who holds the auction is exempt from the MVDA, and
 - The buyer is located and registered as a dealer in another jurisdiction (province or country)
- Sell a vehicle they repossessed to or through a registered dealer or at an auction where:
 - The person who holds the auction is exempt from the MVDA, and
 - The sale is made to someone located and registered as a dealer in another jurisdiction
- Trade in a vehicle with a General Dealer or person who is exempt from the MVDA
- Trade in a vehicle with the buyer if:
 - The vehicle is part of a conditional sales contract originally made between the buyer and General Dealer and
 - The General Dealer has assigned their interest under the contract to the Lease Finance Dealer
- Advertise any of the activities above

Fleet Lessor (Commercial Lessor subclass)

Doesn't act as a dealer, except to:

- Buy or lease vehicles as a lessee
- Lease a vehicle to a lessee who is not a consumer
- Sell a previously leased vehicle to:
 - The lessee
 - The person who drove the vehicle during the lease term
 - An officer or director of the lessee (if the lessee is a corporation)
 - The partner of the lessee (if the lessee is a partnership)
 - A registered dealer
 - At an auction where:
 - The person who holds the auction is exempt from the MVDA, and
 - The buyer is located and registered as a dealer in another jurisdiction
- Advertise any of the activities above

Fleet Lessor (Short-term Lessor subclass)

Can only:

- Buy vehicles or lease vehicles as a lessee
- Lease a vehicle to a lessee who is not a consumer

FAST FACTS

- There are many different categories or classes of registered dealers. Some dealers can register in more than one class.

Registration of dealers and salespeople

- Lease a vehicle to a consumer for a fixed term of less than four months, except if the lease renews automatically
- Sell a vehicle the Fleet Lessor leased to a lessee who is not a consumer, and:
 - To a registered dealer, or
 - At an auction where:
 - The person who holds the auction is exempt from the MVDA, and
 - The sale is made to someone located and registered as a dealer (or equivalent) in another jurisdiction
- Advertise any of the activities above

2.15 Notifying OMVIC of changes

Registered dealers and salespeople must notify OMVIC of any change that affects their registration. They should do so right away and not wait until it's time to renew.

Dealers must notify OMVIC in writing within five days of:

- Change of dealer address
- Changes of officers or directors (for corporations or partnerships)
- Hiring a salesperson, including their start date
- A salesperson leaving the dealership, including the date and reason
- Any event that destroys records the dealer is required to keep, or makes them unavailable (e.g. theft, fire, flood; see Chapter 3 for more information)

Salespeople must notify OMVIC in writing within five days of:

- Change of address
- Starting to work for a dealer, including the start date
- Leaving a dealership, including the date

Dealers and salespeople must notify OMVIC in writing within five days of:

- Any changes to information they gave OMVIC for registration purposes
- Change to a dealer's agreement that a salesperson can work for more than one dealer

2.16 Summary

All motor vehicle dealers and salespeople in Ontario must register with OMVIC. Registration is valid for two years for salespeople and one year for dealers, then they have to renew.

OMVIC does background checks to make sure people entering the industry will do business with honesty, integrity and in a financially responsible way. Applicants must complete the Automotive Certification Course to register. OMVIC decides who is qualified to register, or whether dealers and salespeople continue to be qualified.

Dealers must list all their business locations on their registration. Salespeople must be registered to a dealer. A salesperson can work for more than one dealer if all the dealers involved sign a written agreement.

OMVIC must give written notice (called a proposal) if the Registrar intends to refuse or revoke (cancel) someone's registration. The person can appeal the decision to the Licence Appeal Tribunal (LAT). The LAT can tell the Registrar to go ahead with the proposal, change it or set it aside.

A dealer or salesperson whose registration or renewal was refused and/or revoked can reapply after two years if there is proof that the circumstances have changed.

The minimum fine for an unregistered dealer (also called a curbsider) is \$5,000.



Registered dealers and salespeople must notify OMVIC within 5 days if any of their registration information changes.

2.17 Definitions

consumer: a customer acting for personal, family or household purposes, not business purposes. A consumer doesn't include a corporation.

corporation: a legal entity created by or under the authority of the laws of a province or of Canada. The corporation is separate from its shareholders.

curbsider: an illegal, unlicensed seller who poses as a private seller to sell vehicles. Often the vehicles they sell are misrepresented, accident-damaged, odometer-tampered, stolen or have liens.

employ (under the MVDA): to appoint, authorize or otherwise arrange to have another person act on one's behalf, including as an independent contractor.

independent contractor: someone working for themselves who contracts to provide specific services to someone else.

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

officer (under the MVDA): includes the chair and vice-chair of the board of directors, president and vice-president, secretary and assistant secretary, treasurer and assistant treasurer, general manager and assistant general manager of the corporation; partner or general manager and assistant general manager of a partnership; any other person designated as an officer by bylaw or resolution or any other person who performs functions normally performed by a person occupying one of the listed offices.

sole proprietorship: a person carrying on business alone.

trade (under the MVDA): includes buying, selling, leasing, advertising or exchanging an interest in a vehicle or negotiating or inducing or trying to induce the buying, selling, leasing or exchanging of an interest in a vehicle.

Registration of dealers and salespeople

The following are exempt from registering with OMVIC:

- **bus or commercial vehicle dealer**
- **car rental agency:** rents vehicles they do not own or sell, and rents for no more than 120 consecutive days.
- **company buying vehicles for business or employee use,** as long as the company isn't also in the business of buying, selling or repairing vehicles.
- **creditors and their agents:** those who legally take possession of a vehicle from a debtor (someone who owes money) and sell it to or through a registered dealer.
- **heavy truck dealer:** a dealer who buys, sells or trades in vehicles that carry more than 21 tons (19,050 kg) fully loaded (gross vehicle weight), including a trailer if it has one.
- **insurance company:** buying or selling vehicles related to an insurance claim, registering the vehicles in the insurance company's name and selling them to or through a registered dealer.
- **lawyer**
- **liquidator, receiver, trustee in bankruptcy or executor (trustee) of an estate**
- **not-for-profit corporation giving consumers information to help with buying or selling,** as long as the corporation has no property interest in the vehicle; no conflict of interest with a registered person or insurer; discloses what they get for providing the help; doesn't handle any payments and reports to the Registrar each year.
- **manufacturer or authorized distributor,** as long as they notify the Registrar and only buy or sell vehicles with dealers in the General Dealer – New and Used vehicles subclass.
- **person selling a power-assisted bicycle**
- **person selling for family or sole proprietorship purposes**
- **registered charity**
- **wholesale auction:** an auction that has no property interest in the vehicles being sold, where only registered dealers or people exempt from registration can sell vehicles and only registered dealers can buy them.
- **wrecker:** vehicles bought to be wrecked or taken apart, and reported to the Ministry of Transportation as "wreck."

 NOTES

CHAPTER 2

2.18 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. What is the minimum age required to be a dealer?
2. List three requirements to be a salesperson.
3. True or false: All dealers and salespeople go through a Canada-wide criminal record search as part of the registration application process.
4. Which of the following must be registered with OMVIC (choose all that apply):
 - a. Dealers
 - b. Salespeople
 - c. Business managers
 - d. Finance managers
 - e. Service managers
5. List two reasons why OMVIC might refuse a dealer or salesperson's registration.
6. If someone's registration has been refused, what is one condition that has to be met before they can reapply?
7. If OMVIC issues a proposal to refuse or revoke someone's registration, who can the person appeal to?
8. List four classes of dealers.
9. List three examples of people or businesses that are exempt from registration.
10. Name one change in information that a dealer must notify OMVIC about.
11. In a large dealership, who should the dealer make responsible for ensuring all salespeople are registered? Choose the most correct answer:
 - a. Bookkeeper
 - b. Salesperson
 - c. Sales manager
 - d. Payroll supervisor

12. OMVIC can refuse, revoke or suspend registration of a dealer, salesperson or corporation if the financial responsibility or past actions of an "interested person" gives them reason to. Who does OMVIC consider an "interested person?"
13. Where must the dealer keep their certificate of registration?
14. True or false: A salesperson must show their registration certificate to a customer if the customer asks to see it.
15. Describe:
 - a. Both classes of General Dealer
 - b. Three other dealer classes



CHAPTER 3

Dealer premises and records

- 3.01** Learning objectives
- 3.02** Introduction
- 3.03** Dealer premises
- 3.04** Dealer records
- 3.05** Protecting the privacy of information
- 3.06** Trust account
- 3.07** Freeze order
- 3.08** Summary
- 3.09** Definitions
- 3.10** Test yourself



3.01 Learning objectives

After completing this chapter, you'll be able to describe:

- General regulations about a dealer's premises (place of business)
- Registration requirements for a dealer's premises
- Specific records dealers must keep
- Trust account requirements
- Why OMVIC can issue a freeze order

Dealer premises and records

3.02 Introduction

The MVDA includes specific requirements for a dealer's place of business. It says dealers can only do business from the location listed on their registration (unless the dealer is classified as a Broker, Lease Finance Dealer, Fleet Lessor or Outside Ontario Dealer).

The MVDA also describes what records (documents and information) a dealer must keep, how long they must keep them and even where a dealer must store records. The three general types of records covered by the MVDA are:

1. Vehicle records
2. Transaction records (related to buying and selling)
3. Business records

3.03 Dealer premises

The location where a dealer does business is their "premises." On their OMVIC registration application, a dealer has to list their:

- **Legal name** (the name the business is registered under, such as 12345 Ontario Ltd.)
- **Trade name**, if it's different (the name used day-to-day and in marketing, such as XYZ Car Sales)
- **Business address**

Dealers can only do business under the registered name at the registered address, and no other location.

If the dealer is registered as a General Dealer or Exporter, their premises have to be separate from a dwelling (house or other residence).

Retailers who are selling vehicles need an office and a lot – land or space to show the vehicles for sale. A home, driveway or curbside can't be a lot. The office and lot must be approved by the municipality to show and sell motor vehicles. All dealers must follow municipal bylaws and zoning requirements.

Dealers are required to have the proper permits and insurance for their premises:

- Valid municipal permit for the display and sale of vehicles
- Lease with a term of at least six months that allows the display and sale of vehicles and gives the dealer unrestricted access to the premises
- Valid garage and auto policy OAP4 with a minimum third-party coverage of \$1,000,000, as required by the *Compulsory Automobile Insurance Act*

Multiple dealer premises

A General Dealer can share a location with one or more other dealers, as long as customers can easily see which dealer they are dealing with, and which one owns each vehicle. A shared location must allow OMVIC to inspect each dealer, and must have enough space for the dealers to store documents properly. For these reasons, shared General Dealers' premises must have:

- A separate, permanent office space for each dealer that:
 - Is fully secured and enclosed (walls that go up to the ceiling, lockable door)
 - Has enough space to securely store six years of books and records
 - Gives the dealer a work area to do business (including furniture such as desk, chairs, filing cabinets)
 - Has electricity, heat and access to a washroom
- An area for dealers to display vehicles that is clearly marked with each dealership's name, or a sign on each vehicle that shows the name of the dealer selling it

And shared premises must be:

- Clearly separate from other businesses operating at the location – except for an office the dealership shares with a related business that the same dealership operates, such as a repair shop
- Easily accessible and open to the public, or be reached by a clearly posted phone number, during normal business hours or at times that are clearly posted

3.04 Dealer records

Dealers must follow strict rules for keeping and storing the following kinds of documents and information:

Vehicle records

For every vehicle the dealer has for sale, they must keep records of:

- Vehicle identification number (VIN)
- Copy of any Safety Standards Certificate
- Result of any inspection under the *Highway Traffic Act*
- Details 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
- If the odometer has been replaced or repaired:
 - The reading both before and after the work
 - Name of the person who did the work
- Proof of applying for a new vehicle permit within six days, as required under the *Highway Traffic Act*
- Complete records of used vehicles, as required under the *Highway Traffic Act*

An Outside Ontario Dealer doesn't need to keep records of:

- Safety Standards Certificate
- Result of any inspection under the *Highway Traffic Act*
- Details of any repair or reconditioning work done or authorized by the dealer

Garage registers

The *Highway Traffic Act* requires that dealers keep a complete record of information about each vehicle so the vehicle can be easily identified. The information must be recorded in a garage register.

A dealer must also notify the Ministry of Transportation of any vehicle or trailer they buy or sell.

Dealers can keep a garage register on paper or electronically as long as they record the required information under the required headings. Either paper or digital garage registers must be available for OMVIC, the police or the Ministry of Transportation to see at any time during normal business hours. If they use digital garage registers, dealers should be sure to make backups.

FAST FACTS

- A dealer's registration is only valid for the name and location listed on their application. Dealers must tell OMVIC within five days if their dealership name, location or ownership changes.
- Dealers have to follow strict rules about the kinds of records they must keep, and how they store them.

Dealer premises and records

Transaction records

For each purchase, sale or trade, the dealer must keep records of each:

- Sale to a buyer
- Lease to a lessee
- Consignment contract
- Sale to a customer under a consignment contract, whether the dealer is the consignor or consignee
- If the dealer is a broker, each agreement with a customer that they arrange
- If a broker arranged the trade
- Sale or lease arranged by the dealer, if they are a general dealer
- Purchase (including trade-ins) by the dealer
- Sale of an extended warranty or service plan, including whether the dealer arranged the sale
- Method and amount of payments made to or by the dealer (including commissions). Records must include:
 - Copies of cheques, receipts or any other evidence of payments
 - Any correspondence, worksheet or other document that shows the breakdown of costs related to any sale or lease

A fleet lessor doesn't need to record:

- If a broker arranged the trade
- Method and amount of payments made to or by the dealer

Business records

The dealer must keep the following business records:

- Employee records:
 - Names of employees
 - Positions held
 - Dates of employment
 - How much each employee is paid
 - Proof of payment

- List of all "associated persons" and how they are associated with the dealer (see Chapter 2.09)
- Banking records, including bank accounts and financing, such as loan agreements and/or credit arrangements
- Documents related to dealer premises

Dealers have to give OMVIC the following documents related to their premises:

- Valid municipal permit for the display and sale of vehicles
- Copy of the lease, if the premises are leased
- Evidence of valid garage and auto insurance

Storing records

Dealers must store the required records for six years at one of their registered addresses (not a home or residence). If there isn't enough space at their registered address, the dealer can apply to OMVIC for permission to store records at another location. OMVIC staff must be able to access the other location for inspection purposes during normal business hours.

If any required records are destroyed or become unavailable due to a serious event such as theft, fire or flood (called a "force majeure"), the dealer must tell OMVIC in writing within five days what was lost and why.

Electronic record-keeping

The following information about electronic record-keeping is just a guideline and not a requirement of the MVDA.

Dealers can store records in electronic format if they follow the same rules and guidelines as for paper records. Electronic record-keeping is optional, not mandatory.

Dealers who digitize records that are currently in paper format can then dispose of the paper copies in a safe and secure way.

If a dealer chooses to keep electronic records, they should be:

- Kept safe, secure and only accessible to those authorized to access them
- Kept confidential
- Available for and subject to regular audits to ensure integrity
- Organized, clear and understandable
- Saved in a format, quality and resolution that is easily printed
- Backed up to a secondary source

Dealers must get permission from the Registrar to keep electronic records off-site, such as in a cloud-based service or on a third-party computer server.

3.05 Protecting the privacy of information

Dealers are required to keep personal information about customers and potential customers private.

What is personal information?

Information is considered personal if it can identify someone. This can be any two of the following types of information: name, date of birth, address, phone number, email address, etc. Or it can be just one piece of information that can identify someone on its own, such as driver's licence, health card or credit card numbers.

Dealers can only store personal information if they have the person's express permission (clear and specific agreement) and can only use it for the purposes the person agreed to in writing.

Who does personal information belong to?

Customer information belongs to the dealership, not to an employee of the dealership. This means the dealer is responsible for keeping and protecting personal information as required by privacy laws. This includes the salesperson's copy of a contract.

Salespeople are not allowed to take personal customer information with them if they leave a dealership. If they do, it could be said the dealership didn't fulfill its responsibilities.

What should dealers do?

Dealers can consider putting a clause in employment contracts that says information about customers and potential customers belongs to the dealership and that taking this information would be theft. New employees should be asked to initial the clause to show they are aware of it.

FAST FACTS

- Dealers have to keep customers' personal information private. Information is personal when it can identify someone.

Dealer premises and records

Dealers should also consider keeping customers' personal information under lock and key, preferably in a central location, such as an office, that can also be locked. Personal information that salespeople use should be marked "do not copy" and should be collected at the end of each employee's shift. Personal information stored in electronic format must also have protections in place to keep data secure.

If a salesperson thinks their situation is an exception to these rules, they should talk about it with their employer and talk to a lawyer before using anyone's personal information.

3.06 Trust account

General Dealers must have a trust account to safely hold money for deposits and consignment sales, and keep it separate from their general funds.

A General Dealer must have a trust account to hold:

- Any deposit of more than \$10,000 they get from a buyer
- Money they get for a consignment sale when the consignor bought the vehicle for personal or family use

The purpose of the trust account is to protect the customer's money.

The information below about trust accounts is just a guideline. Dealers should review the relevant sections of the MVDA and check with a lawyer if they have any questions.

The trust account should be set up at a bank, loan or trust corporation, credit union or authorized foreign bank under the *Bank Act*. The dealer must give OMVIC the details of the trust account.

The name on the account should include the words "*Motor Vehicle Dealers Act, 2002, Trust Account*" (or "Trust Account," if there isn't enough room) and the registered name of the dealer.

Money in the trust account must be kept separate from the dealer's general funds and can never be used as collateral (security for a loan).

In the case of a consignment deal, the dealer must deposit all the money they get directly into the trust account. The dealer has to pay the consignor the amount shown on the written consignment agreement before the dealer can take out any fee for the sale.

The dealer must reconcile the trust account each month within 30 days of getting the monthly statement from the bank or financial institution (unless the account has a zero balance or there hasn't been any activity on the account that month). Reconciling means checking the statement against the dealer's transaction records and accounting for any differences. Dealers can get detailed instructions for reconciliation from OMVIC.

3.07 Freeze order

In extreme situations, OMVIC may issue an order to freeze a dealer's assets or trust funds. They only do this when customers and the public need protection, such as after a search order has been issued or a criminal case has started. OMVIC can make the freeze order against a dealer or curbsider (illegal, unlicensed seller) without telling the person first.

3.08 Summary

The MVDA has specific requirements about a dealer's place of business, about the kind of records and information they have to keep and how they store it.

General Dealers must have a trust account to hold any deposit of more than \$10,000 that they get, as well as the money they get from consignment sales. Trust account money must be kept separate from the dealer's general funds and can never be used as collateral.

In extreme situations, OMVIC can freeze a dealer's assets or trust funds without notifying the dealer first.

3.09 Definitions

consignment: when a dealer (consignee) sells a vehicle on behalf of the owner (consignor) for a fee. Although the consignee has possession of the vehicle, the consignor is still the owner until the sale is complete.

deposit: money paid in advance for buying or leasing a vehicle. The full amount is due later.

dwelling: residence; a place where someone lives, such as a house or apartment.

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



FAST FACTS

- A trust account is an account at a bank or other financial institution that holds money for someone other than the account owner.
- OMVIC can freeze a dealer's assets without any advance notice if OMVIC thinks it's necessary to protect the public.

CHAPTER 3

3.10 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. True or false: Dealers can sell vehicles from any location, as long as they've registered a head office with OMVIC.
2. List two requirements for a dealer's premises.
3. The MVDA tells dealers what records they must keep.
True or false: Dealers must keep the records for at least six years
4. The *Highway Traffic Act* requires dealers to keep a complete record of every vehicle they sell. What is this record called?
5. List four examples of the information dealers have to keep about vehicles they sell or lease.
6. Which of the following employee information must a dealer keep:
 - a. Employee name
 - b. Employee salary
 - c. Proof of payment
 - d. All of the above
7. If a dealer's records are destroyed or stolen, the dealer must tell which of the following. Choose the most correct answer.
 - a. The OMVIC inspector next time they come for a scheduled inspection
 - b. OMVIC, in writing within five days
 - c. The OMVIC investigator, within 30 days
 - d. The Ministry of Public and Business Service Delivery, in writing within 10 days
8. What does a dealer have to do if they want to store records somewhere other than the location where they do business?
9. Which condition must be met for OMVIC to approve a dealer storing records somewhere other than their registered address?
 - a. Location has a security system
 - b. Location is accessible to OMVIC staff during normal business hours
 - c. Location is in the same municipality as the dealer's registered address
 - d. All of the above
10. True or false: The MVDA requires all dealers to have a trust account.

- 11.** Dealers must keep deposits of what amount (or more) in a trust account?

 - a. \$1,000
 - b. \$5,000
 - c. \$10,000
 - d. Dealers don't have to put any deposit amount in a trust account
- 12.** True or false: OMVIC must notify a dealer before issuing an order to freeze their assets or trust funds.



CHAPTER 4

Contract requirements

- 4.01** Learning objectives
- 4.02** Introduction
- 4.03** Contract for sale of a new vehicle
- 4.04** Contract for sale of a used vehicle
- 4.05** Contract for lease of a vehicle
- 4.06** Extra contract requirements for trade-ins
- 4.07** Contract for sale on consignment
- 4.08** Contract with Broker to arrange purchase or lease
- 4.09** Showing negative equity on contracts
- 4.10** Financing representations
- 4.11** Summary and sample contract
- 4.12** Definitions
- 4.13** Test yourself



4.01 Learning objectives

After completing this chapter, you will understand:

- What information must be included in retail contracts for the sale of a new or used vehicle, or lease of a vehicle
- Extra contract requirements for trade-ins on sales and leases
- Contract requirements for consignment sales
- Contract requirements when a dealer Broker arranges the purchase or lease

Contract requirements

4.02 Introduction

The MVDA requires that specific details and information must be included in every contract with a customer for the sale or lease of a vehicle.

It also requires that certain informational or educational statements must be included in contracts (and even says what type and size of font to print them in). These statements are intended to:

- Make sure customers fully understand their rights and obligations
- Tell buyers about OMVIC and its role, as well as the Motor Vehicle Dealers Compensation Fund and Canadian Motor Vehicle Arbitration Plan (CAMVAP)
- Help clear up the common misunderstanding of a “cooling off period”

The MVDA and the *Consumer Protection Act* say that all required disclosures, including all the contract requirements discussed in this chapter, must be “clear, comprehensible and prominent” – meaning they must stand out in the contract and be easy for the customer to understand. See Chapter 5.03.

4.03 Contract for sale of a new vehicle

A contract for the sale of a new vehicle must include:

- Buyer’s name and address
- Dealer’s registered name (and legal name, if different), address and registration number
- Salesperson’s name and registration number
- Date of sale and date of delivery
- Vehicle information:
 - Vehicle identification number (VIN), if known
 - Make, model, model year and trim level
 - Colour and body type

- Odometer reading when the vehicle is delivered:
 - If the contract is for a new, specifically identified vehicle (e.g. in stock, VIN is known): Maximum distance that will be shown on the odometer when it is delivered
 - If the contract does not specifically identify the new vehicle (e.g. not in stock, VIN unknown): Maximum distance that will be shown on the odometer when it is delivered OR a statement initialled by the buyer saying there is no maximum
- Pricing and charges:
 - Manufacturer’s suggested retail price (MSRP)
 - Detailed list of MSRPs of all extra equipment and options in the contract
 - Total MSRP (total of the above two items)
 - Detailed list of charges the customer must pay (including freight, pre-delivery inspection [PDI], fees and levies)
 - Total sale price including the charges above
 - If the dealer has included items or incentives at no extra charge: Detailed list with fair and accurate descriptions and retail value of each item (e.g. DVD player, warranty, service plan, etc.)
- Payment information:
 - Down payment or deposit paid by the buyer
 - Balance to be paid
 - Detailed list of all other charges the buyer will pay at the time of delivery (e.g. taxes, licensing)
- Financing information:
 - If the dealer helps the consumer get financing: A statement with the information required by the *Consumer Protection Act* in the Initial Disclosure Statement (IDS). The IDS gives the customer full disclosure of payment terms, including monthly payments, interest rate, term, total payments and other charges. See Chapter 13.07

- If the dealer or salesperson will get a commission, payment or incentive from any source other than the dealer for giving the customer the financing application: A statement explaining this must be included and initialled by the buyer (this includes a dealer reserve)
- If there is a trade-in: See the extra requirements in section 4.06
- All restrictions, limitations and conditions on the buyer
- Any required disclosure related to a vehicle's previous use, history or condition. See Chapter 5
- Any facts about the vehicle that the buyer considers important to the purchase

Informational statements

The following statements must also be included in the contract:

Sales final – on the same page as the buyer's signature and beside the signature

SALES FINAL (in 14 point 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.

OMVIC/Compensation Fund important information

IMPORTANT INFORMATION RESPECTING MOTOR VEHICLE SALES (in 14 point 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.ca

FAST FACTS

- Contracts must be in writing, clear and worded in a way the customer can understand.

Contract requirements

CAMVAP – the following statement in large, bold print

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan (CAMVAP) allows consumers to resolve disputes with participating manufacturers about possible defects in a vehicle's assembly or materials, or how the manufacturer is applying or administering its new vehicle warranty. Please contact CAMVAP for more information about the program and to see if your vehicle qualifies.

The dealer is responsible for making sure the contract is signed by the dealer, the buyer and the salesperson, and that the buyer gets a copy right after signing.

There must be a separate contract for each vehicle sold.

Demonstrator vehicles

Demonstrators (demos) are legally considered used vehicles, so charges that are specific to new vehicles (e.g. air tax, freight) shouldn't be listed on a contract when selling a demo.

However, OMVIC knows most manufacturers offer new vehicle incentives and/or financing on demos, which means a dealer may have to use a new vehicle contract. If a dealer uses a new vehicle contract when selling a demo, they should remove charges for freight, PDI, air tax, etc.

Dealer Management System limitations

Some dealers have said their Dealer Management System (DMS) software doesn't let them delete new vehicle charges like freight.

Most DMS software providers say their systems do allow charges like freight to be unselected or zeroed. Dealers should contact their software provider if they need help with this.

But if the dealer's software doesn't let them remove new vehicle charges when selling a demo, the dealer should include a discount on the contract equal to the new vehicle charges, and separate from any other discount they give the customer. This lets the dealer show they aren't charging the freight, PDI, air tax, etc. on a demo.

4.04 Contract for sale of a used vehicle

A contract for the sale of a used vehicle must include:

- Buyer's name and address
- Dealer's registered name (and legal name, if different), address and registration number
- Salesperson's name and registration number
- Date of sale and date of delivery
- Vehicle information:
 - Vehicle identification number (VIN)
 - Make, model, model year and trim level
 - Colour and body type
- Total distance the vehicle has been driven
 - If the dealer can't confirm the total distance the vehicle has been driven, but can confirm a distance the vehicle had been driven as of some past date, the contract must include a statement of the distance and date, and a statement that "the total distance the vehicle has been driven is believed to be higher"
 - If the dealer can't confirm the total distance the vehicle has been driven nor a past distance and date, the contract must include 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"

- Pricing and charges:
 - Itemized list of charges the customer must pay (including fees and levies)
 - Total sale price including the charges above
 - If the dealer has included items or incentives at no extra charge: Detailed list with fair and accurate descriptions and retail value of each item (e.g. DVD player, warranty, service plan, etc.)
- Payment information:
 - Down payment or deposit paid by the buyer
 - Balance to be paid
 - Detailed list of all other charges the buyer will pay at the time of delivery (e.g. taxes, licensing)
- Financing information:
 - If the dealer helps the consumer get financing: A statement with the information required by the *Consumer Protection Act* in the Initial Disclosure Statement (IDS). The IDS gives the customer full disclosure of payment terms, including monthly payments, interest rate, term, total payments and other charges. See Chapter 13.07
 - If the dealer or salesperson will get a commission, payment or incentive from any source other than the dealer for giving the customer the financing application: A statement explaining this must be included and initialled by the buyer (this includes a dealer reserve)
- If there is a trade-in: See the extra requirements in section 4.06
- Any required disclosure related to a vehicle's previous use, history or condition. See Chapter 5
- Any facts about the vehicle that the buyer considers important to the purchase. For example, if the buyer wants a specific disclosure such as "has this car ever been used as a tow vehicle?" the dealer must provide that information. If the dealer doesn't know, they must say so. If the dealer knows the answer, they must put it in writing
- All restrictions, limitations and conditions on the buyer
- Detailed list of all repairs the dealer has made or will make under the contract, and the cost to the buyer

FAST FACTS

- A dealer can use a new vehicle contract when they sell a demo vehicle but must remove any charges that only apply to new vehicles.

Contract requirements

Informational statements

The following statements must also be included in the contract:

Sales final – on the same page as the buyer's signature and beside the signature

SALES FINAL (in 14 point 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.

OMVIC/Compensation Fund important information

**IMPORTANT INFORMATION
RESPECTING MOTOR VEHICLE
SALES** (in 14 point 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.ca**

CAMVAP – the following statement in large, bold print

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan (CAMVAP) allows consumers to resolve disputes with participating manufacturers about possible defects in a vehicle's assembly or materials, or how the manufacturer is applying or administering its new vehicle warranty. Please contact CAMVAP for more information about the program and to see if your vehicle qualifies.

The following statements may need to be included in the contract:

Safety standards – If the dealer is providing a current Safety Standards Certificate (SSC) for the vehicle under the *Highway Traffic Act*, the following statement must be included in the contract 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.

As-is statement – if the vehicle is being sold “as-is,” the following statement must be included in the contract in bold print and initialled by the buyer:

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 can’t sell a vehicle as-is if an SSC has been issued for the vehicle. See Chapter 16.03.

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 making sure the contract is signed by the dealer, the buyer and the salesperson, and that the buyer gets a copy right after signing.

There must be a separate contract for each vehicle sold.

Fit, unfit and as-is vehicles

A used vehicle can be categorized as fit, unfit or as-is. **Fit** means the vehicle is driveable, road worthy and/or mechanically sound. **Unfit** means it is road worthy but doesn’t have updated certifications.

As-is means it isn’t in road worthy condition. See Chapter 8.06, 8.07 and 16.03.

4.05 Contract for lease of a vehicle

A dealer other than a Fleet Lessor must ensure a vehicle lease contract includes:

- Lessee’s name and address
- Dealer’s registered name (and legal name, if different), address and registration number
- Salesperson’s name and registration number

FAST FACTS

- A used vehicle can be sold with a Safety Standards Certificate or in “as-is” condition, but not both.

Contract requirements

- Vehicle information:
 - Vehicle identification number (VIN)
 - Make, model, model year and trim level
 - Colour and body type
- Whether the vehicle is under a service plan
- If there is a trade-in: See the extra requirements in section 4.06
- All restrictions, limitations and conditions on the lessee
- Any required disclosure related to a vehicle's previous use, history or condition. See Chapter 5
- Any facts about the vehicle that the lessee considers important to the purchase
 - If the lessee is a consumer, the dealer (other than a Fleet Lessor) must include a statement with the information required by the *Consumer Protection Act* in the Lease Disclosure Statement (LDS). The LDS gives the lessee full disclosure of payment terms, including monthly payments, interest rate, term, total payments and other charges. See Chapter 13.08

Informational statements

The following statements must also be included in the contract:

OMVIC/Compensation Fund important information

IMPORTANT INFORMATION RESPECTING MOTOR VEHICLE SALES (in 14 point 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.ca

CAMVAP – the following statement in large, bold print

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan (CAMVAP) allows consumers to resolve disputes with participating manufacturers about possible defects in a vehicle's assembly or materials, or how the manufacturer is applying or administering its new vehicle warranty. Please contact CAMVAP for more information about the program and to see if your vehicle qualifies.

The following statements may need to be included in the contract:

Safety standards – If the dealer is providing a current Safety Standards Certificate (SSC) for the vehicle under the *Highway Traffic Act*, the following statement must be included in the contract 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.

The dealer is responsible for making sure the contract is signed by the dealer, the buyer and the salesperson, and that the buyer gets a copy right after signing.

If the vehicle being leased is used, the dealer must give the lessee a copy of the current SSC.

There must be a separate contract for each vehicle leased.

4.06 Extra contract requirements for trade-ins

There are extra requirements when a buyer or lessee trades in a vehicle.

If the dealer that sells or leases the vehicle receives the trade-in, they must include the information below in the sale or lease contract.

If another registered dealer receives the trade-in, they must include the information below in a trade-in contract.

- Name and address of the owner of the traded-in vehicle
- Dealer's registered name (and legal name, if different), address and registration number
- Salesperson's name and registration number
- Date of trade-in, if known, or expected trade-in date, if known
- Vehicle information:
 - Vehicle identification number (VIN), if known
 - Make, model, model year and trim level
 - Colour and body type
- The credit for the trade-in or the amount the dealer paid for it if another dealer receives the vehicle
- Recorded odometer reading
- Condition of the vehicle
- If the dealer receiving the vehicle agrees to pay any outstanding loan, repair or storage bill, the contract must include that information

FAST FACTS

- When a buyer or lessee exchanges their used vehicle for another vehicle, this is called a trade-in. The dealer gives the customer a credit for the trade-in toward the purchase or lease of another vehicle.

Contract requirements

Required disclosures

The person trading in the vehicle must provide the required disclosures listed in Chapter 5.04 (including disclosure of previous uses, vehicle history, quality, condition).

Some associations and businesses have created documents to help dealers get this additional information. For example, here is the 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.ucdashsearches.com
or call: 416-599-7412 or 1-800-668-8265

APPRAISAL DATE: _____ STOCK NO.: _____

APPRAISED BY: _____

☐ UCDA Lien Search & Kwik Check™ ☐ CAN✓CHECK™
☐ Auto Check™ ☐ Ontario History Search
☐ Out-of-Province Lien Search ☐ CARFAX™

LAST NAME _____ FIRST NAME _____

ADDRESS _____ CITY _____ PROVINCE _____ POSTAL CODE _____

HOME PHONE _____ BUS. PHONE _____ CELL PHONE _____ E-MAIL _____

VIN # _____ YEAR _____ MAKE _____ MODEL _____ TRIM/EXT _____ COLOUR _____ # OF CYL _____

☐ GAS ☐ DIESEL ☐ HYBRID REGISTRATION VIEWED ☐ 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, BROKEN, 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 YES TO ANY, EXPLAIN: _____

FOR HYBRID/HI-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 ENGINE ☐ Yes ☐ No BRAKING SYSTEM ☐ Yes ☐ No

AIR BAGS ☐ Yes ☐ No FUEL SYSTEM ☐ Yes ☐ No OTHER _____

EQUIPMENT:

POWER WINDOWS ☐ AIR BAGS ☐ AIR CONDITIONING ☐ CD/DVD ENTERTAINMENT CENTRE ☐

POWER LOCKS ☐ ABS ☐ WHEELS (ALLOY) ☐ AUTO TRANSMISSION ☐ MANUAL TRANSMISSION ☐

CRUISE CONTROL ☐ KEYLESS ENTRY ☐ LEATHER INTERIOR ☐ NAV SYSTEM ☐

DOES VEHICLE REQUIRE REPAIRS?

ENGINE ☐ Yes ☐ No COMPUTER ☐ Yes ☐ No

SUSPENSION/SUBFRAME ☐ Yes ☐ No ELECTRICAL SYSTEM ☐ Yes ☐ No

TRANSMISSION ☐ Yes ☐ No AIR CONDITIONING ☐ Yes ☐ No

FUEL SYSTEM ☐ Yes ☐ No STRUCTURAL PARTS DAMAGED ☐ Yes ☐ No

POWER TRAIN ☐ Yes ☐ No 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 _____

© 2012 UCDA Used Car Dealers Association Of Ontario 35823 UCDA

Form provided courtesy of Used Car Dealers Association of Ontario

4.07 Contracts for sales on consignment

The dealer must make sure there is a written consignment contract signed by the consignor and dealer, whether or not the consignor is another registered dealer.

If the consignor is exempt from registration (such as someone selling their family car), the contract must include:

- Consignor's name and address
- Dealer's registered name (and legal name, if different), address and registration number
- Vehicle information:
 - Vehicle identification number (VIN)
 - Make, model, model year and trim level
 - Colour and body type
- If the vehicle is used, the total distance the vehicle has been driven
 - If the dealer can't confirm the total distance the vehicle has been driven, but can confirm a distance the vehicle had been driven as of some past date, the contract must include a statement of the distance and date, and a statement that "the total distance the vehicle has been driven is believed to be higher"
 - If the dealer can't confirm the total distance the vehicle has been driven nor a past distance and date, the contract must include 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"
- The total amount that the dealer will charge the consignor when they sell the vehicle (either a fixed amount or a commission) and a detailed list of those charges
- An estimate of the selling price of the vehicle and a minimum selling price
- The term of the contract and, if applicable, how the parties can extend it or a statement that they can't extend it
- If the contract can be cancelled before the end of the contract term: What conditions apply, including any early cancellation fees, if applicable
- All restrictions, limitations, conditions and other obligations on the consignor

See Chapter 18 for more on consignment sales.

4.08 Contract with Broker to arrange purchase or lease

When a dealer registered as a Broker arranges a vehicle trade on behalf of a customer who isn't another Broker, they must use a contract that includes:

- Customer's name and address
- Broker's registered name (and legal name if different) and registration number
- Broker's business phone number and other ways the customer can contact the Broker
- Anything the customer has specified about the vehicle, or a statement that the customer hasn't specified anything
- If the customer is willing to trade in a vehicle in connection with the trade: A description of the vehicle to be traded in and the minimum amount the customer will accept for the trade-in
- Detailed list of charges, if any, that the customer must pay the Broker, including taxes
- The total charges, if any, that the customer must pay the Broker, including taxes, plus the terms and method of payment
- If the Broker will get compensation from anyone other than the customer for brokering the trade: A statement about the compensation and the name of the person who will pay it, initialled by the customer
- The term of the contract and any conditions about cancelling the contract early
- All restrictions, limitations and conditions on the customer

Informational statement

The following statement must also be included in the contract in 14 point bold font. If it isn't on the first page of the contract, then it must be initialled by the customer:

Any payment for the purchase or lease of a motor vehicle should be made directly to the seller or lessor, as the case may be. A Broker is prohibited from taking or handling funds that are used to pay for the purchase or lease.

A Broker is not authorized to make promises on behalf of any person.

The contract must also include OMVIC's contact information, including its website address, phone number (including toll-free number) and its trademark.

Brokerage contracts must be signed by the parties and the customer must get a copy right after signing.

4.09 Showing negative equity on a contract

It's common for lenders to finance vehicle purchases and leases that include negative equity. This means that the customer owes more on their vehicle loan than the vehicle is worth.

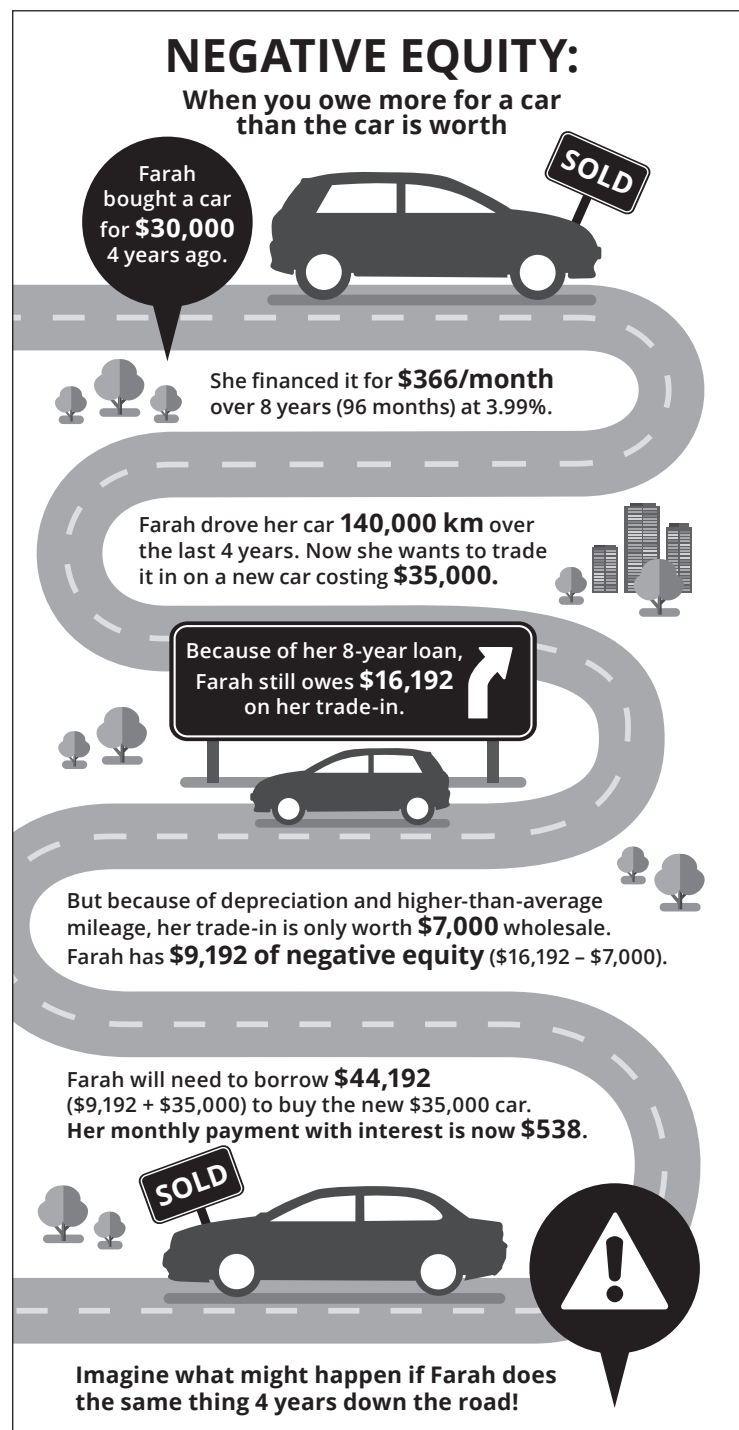
The MVDA requires that contracts accurately show all the details of the transaction, including negative equity.

It's illegal to hide negative equity by inflating the price of the vehicle, fees or other products (such as an extended warranty) or adding fake charges to the contract. Even if the customer agrees to it or if a dealer adds a note saying that the contract hides negative equity, they are breaking the MVDA and Code of Ethics.

Lenders

In cases of negative equity, OMVIC encourages dealers to arrange financing for their customers with lenders who truthfully disclose negative equity. Dealers are prohibited from providing false information, even if the customer and lender agree to it.

This is an example of the right way to show negative equity:



FAST FACTS

- Negative equity means the customer owes more on their vehicle loan than the vehicle is worth.

Contract requirements

4.10 Financing representations

When dealers help arrange financing for customers, they must provide clear and truthful information, both when talking about financing and in writing on the contract, to help customers make informed decisions and get the best financing possible.

Expectations about customer financing

Dealers should do the following to comply with the MVDA and Code of Ethics:

- Give customers clear information and financing options
- Tell customers if the credit application will be sent to more than one lender, and get the customer's approval
- Show the customer the offers from all lenders
- Show the annual percentage rate (APR) of the loan accurately, including all fees
- Make sure customers understand the full price of a vehicle including the cost of borrowing, not just the payments
- Offer the best interest rate and terms that the customer qualifies for
- On the contract, disclose if the dealer gets a fee from a lender for arranging financing
- Make sure the contract truthfully represents the details of the transaction, including showing any negative equity

Is an extended term loan the best option?

Before recommending an extended term loan (ETL) of seven, eight or nine years, dealers and salespeople should talk with their customers to see what financial product best meets their needs. They can start by asking questions such as:

- How long does the customer usually keep a vehicle? Do they usually trade it in before paying it off? This often leads to negative equity.
- How much does the customer drive? Will the vehicle last for the term of the loan?

- What is the overall cost of the loan? Longer terms may mean lower monthly payments, but usually mean a higher total cost of borrowing.
- Does the customer understand that if the vehicle is stolen or destroyed and there is negative equity, their insurance company will reimburse the vehicle's value, not necessarily what they owe on their loan?

4.11 Summary and sample contract

The MVDA requires that lease contracts and contracts for the sale of new and used vehicles must show certain specific information clearly, comprehensibly and prominently – that is, in a way that the customer can understand and that stands out on the contract.

In some cases, a customer may have the right to cancel a contract if these requirements aren't followed (see Chapter 6).

All contracts must be signed, and the dealer must give the customer a copy right away. If the customer gives the dealer a deposit or trade-in, but there is no signed contract, the customer can cancel the contract at any time and demand their trade-in or deposit back.

Sample contract

New dealers don't have to write their own contracts. They can buy contract forms in paper or electronic format. On the following pages is a sample of a contract from the Used Car Dealers Association of Ontario.

 NOTES

FAST FACTS

- Dealers must be sure they provide clear and true information about financing to help customers make a decision that's in their best interest.
- A customer can cancel a contract if they give the dealer a deposit or trade-in but the dealer doesn't give them a copy of the contract.

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Contract page 1, provided courtesy of Used Car Dealers Association of Ontario

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  65 Overlea Boulevard, Suite 300, Toronto, ON M4H 1P1
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 unclaimed, 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, Fiat Chrysler and most exotic foreign sports car manufacturers, do not participate in CAMVAP. Further information can be found at www.camvap.ca

4.12 Definitions

as-is: a vehicle being sold as-is is not represented as being in road-worthy condition, mechanically sound or maintained at any guaranteed level of quality. Dealers who sell a vehicle as-is cannot provide a Safety Standards Certificate (SSC) and the purchase agreement must include the MVDA's definition of as-is. See Chapter 16.03.

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 period of time defined by law during which buyers may change their mind and rescind (cancel) a contract. There is no cooling-off period when someone buys a vehicle from a dealer.

demonstrator vehicle: a used vehicle that has never been owned by a consumer but has been registered and is typically of the current or previous model year.

disclosure: the legal requirement to reveal all relevant facts.

extended warranty (under the MVDA): covers the parts and labour costs of repairing a vehicle in addition to the manufacturer's warranty (or a warranty supplied or implied by the law). See Chapter 9.03.

lien: a claim against a vehicle as security for payment of a debt. Dealers should register a lien whenever a customer owes them money for the purchase, sale or repair of a vehicle.

material fact: relevant information that could make a reasonable person change their decision if they knew the information. For example, information that might make a buyer decide not to buy a vehicle, or would affect the price they are willing to pay.

Safety Standards Certificate (SSC): the certificate issued when a used vehicle has been inspected by a licensed facility and meets the minimum safety standards set by the Ministry of Transportation. Most used vehicles must have an SSC in order to transfer ownership and get licence plates.

unfit: a vehicle that is unfit is not driveable and not certified. Licence plates cannot be attached to it until a Safety Standards Certificate (SSC) is issued for the vehicle.

 NOTES

 NOTES

CHAPTER 4

4.13 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. On a purchase contract, what must be printed in 14 point bold font next to the buyer's signature?
2. List four things that must be in a contract for the sale of a new vehicle.
3. If a dealer doesn't have a specific new vehicle in stock, but will find the vehicle and bring it in, what must the dealer disclose to the buyer about the vehicle's mileage?
4. List four things that must be in the contract for the sale of a used vehicle. (List different things from your answer to question two.)
5. If a Safety Standards Certificate is issued for vehicle, it means:
 - a. The vehicle is safe and guaranteed not to have mechanical issues
 - b. The vehicle met certain basic standards of safety on the day it was inspected
 - c. The vehicle is safe and has a 36-day warranty
6. What statement must be included in the contract and initialled by the purchaser if the vehicle is being sold unfit, not road worthy or mechanically sound?
7. Choose the most correct answer: An as-is sale...
 - a. Isn't legal to a consumer
 - b. Doesn't 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 give the customer a Safety Standards Certificate for the vehicle.
9. Other than the information that identifies the consignor, dealer and vehicle, list three things that must be included in consignment contracts.
10. Contracts must include informational or educational statements that tell buyers/lessees about their rights and responsibilities, and make sure they know about certain agencies or organizations. What are the agencies or organizations?
11. If a customer gives a dealer a deposit or trade-in but doesn't sign a contract, what right does the customer have?



CHAPTER 5

Retail disclosure requirements (With customers – not with other dealers)

- 5.01 Learning objectives
- 5.02 Introduction
- 5.03 Clear, comprehensible and prominent
- 5.04 Required disclosures
- 5.05 \$3,000 damage discussion
- 5.06 Summary
- 5.07 Test yourself



5.01 Learning objectives

After completing this chapter, you'll understand what vehicle information must be disclosed to customers about a vehicle's:

- Previous use
- History
- Quality or condition

5.02 Introduction

Customers must be told 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.”

In addition, the MVDA requires dealers to disclose specific information to a customer about a vehicle’s previous use (e.g. taxi), history (e.g. damaged in a collision) and condition (e.g. missing airbags).

Telling the customer about these things (verbal disclosure) doesn’t meet the MVDA requirement. Disclosure must be made in writing on the contract and must be clear, comprehensible and prominent.

If a dealer doesn’t disclose certain required information, a customer may have the right to cancel the contract and return the vehicle if they meet the criteria. See Chapter 6.

5.03 Clear, comprehensible and prominent

Most customers won’t have an in-depth knowledge of the automotive industry. That’s why dealers must make important information easy to understand and stand out on documents.

The MVDA says dealers must provide disclosures on contracts and in advertisements that are clear, comprehensible and prominent (CCP). However, the MVDA doesn’t say exactly what that means.

As defined by the Canadian Oxford Dictionary:

Clear – easily understood; not open to interpretation; not vague or ambiguous

Comprehensible – easily understood; no hidden meanings; no special knowledge or experience needed to understand the message

Prominent – attracts the attention of the reader; more noticeable than other information in the same document (because of the size or type of font, or location on the page); not hidden in small print or

written in a font that is hard to read (because of its size, colour, etc. or its location on the page); isn’t placed on a web page in a way that requires the reader to scroll down or side to side to see it.

When trying to decide if a disclosure is CCP, simply use common sense: if you aren’t sure whether a statement is CCP, it probably isn’t.

5.04 Required disclosures

Although actual required disclosures will be different depending on a vehicle’s history and condition, a contract must include the make, model, model year and trim level of the vehicle, and must include statements if any of the following apply:

Previous use

The dealer must disclose if the vehicle was previously:

- Used as a police vehicle or to provide emergency services
- Used as a taxi or limousine
- Leased (rented) on a daily basis and hasn’t been owned by someone other than a dealer since then

History

The dealer must disclose if any of the following are true:

- Damage from a collision or incident was greater than \$3,000 (disclosure must include total cost of the repair, if the dealer knows)
- Vehicle has been classified under the *Highway Traffic Act* as irreparable (can’t be repaired), salvage or rebuilt (disclosure must include the most recent classification)
- Vehicle was declared a total loss by an insurer, no matter what it was classified under the *Highway Traffic Act*
- Vehicle has two or more adjacent panels (not including bumper panels) that have been replaced
- Manufacturer’s warranty on the vehicle has been cancelled

- Vehicle was damaged by fire
- Vehicle was damaged by immersion in liquid (flood) that reached the level of at least the interior floorboards
- There is structural damage or the vehicle has had repairs, replacements or alterations to its structure
- Vehicle was previously registered outside Ontario (disclosure must include the place where the vehicle was registered). **Note:** This doesn't apply if the vehicle has since been registered in Ontario for more than seven years
- Vehicle was recovered after being stolen

Quality or condition

The dealer must disclose if any of the following are true:

- Vehicle's anti-lock braking system doesn't work
- Vehicle has missing airbags or airbags that don't work
- Vehicle needs repair to any of its:
 - Engine, transmission or power train
 - Subframe or suspension
 - Computer equipment
 - Electrical system
 - Fuel operation system
 - Air conditioning
- Odometer reading when the vehicle is delivered:
 - If the contract is for the sale or lease of a new, specifically identified vehicle (e.g. in stock, VIN is known): Maximum distance that will be shown on the odometer when it is delivered
 - If the contract does not specifically identify the new vehicle (e.g. not in stock, VIN unknown): Maximum distance that will be shown on the odometer when it is delivered OR a statement initialled by the buyer saying there is no maximum
- If the contract is for the sale or lease of a used vehicle, the total distance the vehicle has been driven:
 - If the dealer can't confirm the total distance the vehicle has been driven, but can confirm a distance the vehicle had been driven as of some past date, the contract must include a statement of the distance and date, and a statement that "the total distance the vehicle has been driven is believed to be higher"
 - If the dealer can't confirm the total distance the vehicle has been driven nor a past distance and date, the contract must include 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"



FAST FACTS

- CCP means the statement is easy to understand and will stand out from the rest of the contract or advertisement.
- A vehicle that has been classified as irreparable, salvage or rebuilt has been branded. See Chapter 18.08.

Retail disclosure requirements (With customers – not with other dealers)

- Vehicle's odometer is broken/faulty, has been replaced or rolled back, or is in miles
- Vehicle is significantly different from its original or advertised production specifications
- The badge or any other indication on the vehicle is for another vehicle model

Additional disclosures

- 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

5.05 \$3,000 damage discussion

Dealers must disclose in writing on the contract if a vehicle had damage of more than \$3,000 from a collision or other incident. They must also disclose how much the repair cost, if they know. Often this information is on vehicle history reports. Dealers shouldn't try to avoid this requirement by using vehicle history reports that they know don't include that information.

Vehicle history reports

OMVIC encourages dealers to compare different vehicle history products and learn about their different strengths and weaknesses. To help make sure they meet MVDA requirements, dealers should use a report that has complete information and also carefully inspect the vehicle.

Damage under \$3,000

Collision or damage repairs that cost less than \$3,000 are considered material facts that must be disclosed.

Repair estimate was different

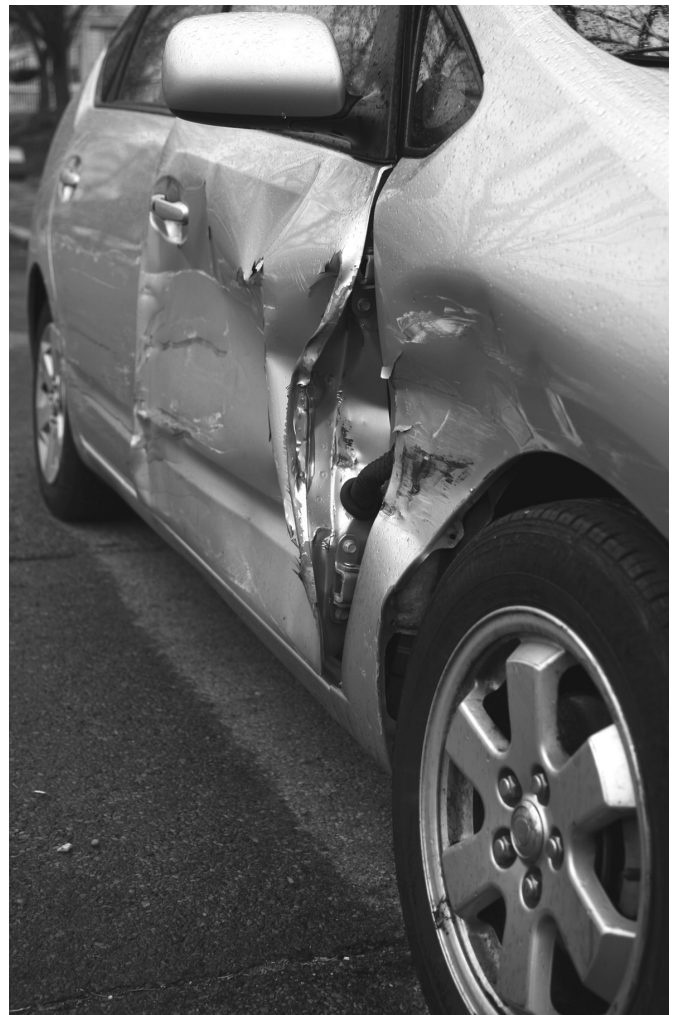
If the cost of the repair was less than what was estimated, then both the repair cost and the estimated cost must be disclosed.

5.06 Summary

The MVDA requires that dealers tell customers about the previous use, history and condition of a vehicle they are buying. Disclosures must be:

- In writing on the contract
- Clear, comprehensible and prominent
- Given in a timely way so the customer can review the information before signing the contract

It's in a dealer's best interest to know the history of any vehicle they offer for sale or lease and to properly disclose that information to the customer. There are good vehicle history reports available to help the dealer get this information.



 NOTES

CHAPTER 5

5.07 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. List three previous uses of a vehicle that dealers must disclose.
2. List three types of damage that dealers must disclose.
3. Dealer A buys a car that was part of a rental company fleet. They sell the car to a consumer for their personal use (giving full and proper disclosures). A year later, the consumer trades that car in to Dealer B, who finds out from a vehicle history report that the car was previously a daily rental. True or false: When Dealer B sells this car to another customer, they don't have to tell the customer that the car used to be a rental.
4. A vehicle was declared a total loss after a collision but has since been repaired and received all the appropriate documentation. True or false: The dealer doesn't have to tell a customer about the previous damage.
5. A dealer has to disclose which of the following:
 - a. Replacement of a single body panel (not including bumper panels)
 - b. Replacement of two or more adjacent body panels (not including bumper panels)
 - c. Repainting of two or more adjacent body panels (not including bumper panels)
6. Dealers must disclose known damage repairs over what amount?
 - a. \$2,000
 - b. \$3,000
 - c. \$5,000
 - d. \$10,000
7. True or false: A dealer doesn't have to disclose to a customer that a vehicle's manufacturer warranty was cancelled if the dealer offers or sells the customer an extended warranty.
8. True or false: If a dealer knows a vehicle's odometer reading isn't accurate, but is unsure what the total distance driven is, they can simply write "unknown" on the contract.

9. Which of the following must be disclosed? Select all that apply.
 - a. Vehicle was previously registered outside Ontario
 - b. Vehicle's anti-lock braking system doesn't work
 - c. Vehicle's airbags are missing
 - d. Vehicle's air conditioning needs repair
 - e. All of the above
10. Disclosure must be given in a timely way, in writing and in a way that's:
 - 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 be sure they know the history of vehicles they buy or accept in trade.



CHAPTER 6

Rescission – cancelling a contract if a dealer doesn't make disclosures

- 6.01 Learning objectives
- 6.02 Introduction
- 6.03 Cancelling a contract
- 6.04 Important cancellation details
- 6.05 Summary
- 6.06 Test yourself



6.01 Learning objectives

After completing this chapter, you will understand:

- When a customer can cancel a contract
- Which customers can cancel a contract
- Important details about cancelling contracts

Rescission – cancelling a contract if a dealer doesn't make disclosures

6.02 Introduction

As discussed in Chapters 4 and 5, dealers must tell customers certain information about the vehicles they sell or lease. If a dealer doesn't properly disclose the required information, the customer may have the right to cancel (rescind) the contract and get their money back.

A customer can't automatically cancel a contract because the dealer left out just any disclosure requirement. The MVDA spells out specific disclosure errors that give a customer the right to cancel a contract. This option is available to any customer who is not a registered dealer.

The remedy of rescission

"Rescission" means cancelling a contract. General Regulation 50 offers rescission as a remedy (a way to fix a problem) if a dealer doesn't properly disclose specific information in a contract.

6.03 Cancelling a contract

The MVDA gives customers the right to cancel a contract if the dealer and the contract don't disclose any of the following before signing.

- Vehicle was previously used as a:
 - Taxi or limousine
 - Police or emergency services vehicle
 - Daily rental (unless the vehicle has since been owned by someone other than a dealer)
- Make, model, model year of the vehicle
- That the vehicle has been branded (classified as irreparable, salvage or rebuilt – see Chapter 18.08). Disclosure must include the most recent classification
- Actual distance the vehicle has travelled, or the appropriate disclosure statement if the dealer doesn't know the distance. See Chapters 4 and 5

6.04 Important cancellation details

Deadline to cancel

Under the MVDA, a customer has up to 90 days from the date of delivery of the vehicle to cancel the contract.

Under the *Consumer Protection Act*, a consumer may have up to one year to request cancellation of a contract if certain disclosures are not made. See Chapter 13.

Dealer's honest mistake

A customer can cancel a contract even if the dealer didn't know the vehicle's true history or honestly believed they disclosed accurate information to the customer, no matter what steps the dealer took to get or check the information.

Refunding trade-ins

A dealer doesn't have to give the customer back a vehicle traded-in under the contract, but they do have to refund the amount paid for the trade-in vehicle or the amount of the trade-in credit shown on the contract.

Note: If the contract inflated (falsely increased) the selling price of the vehicle by \$1,000 and inflated the value of a trade-in by \$1,000, the dealer would have to refund the inflated trade-in value if the contract is cancelled.

Margin of error for mileage

A dealer is allowed a margin of error when disclosing the total distance a vehicle has been driven on a used vehicle (either at the time of sale or at some past date). The distance driven is considered accurate if it's within 5% or 1,000 kilometres of the correct distance, whichever is less.

Other important details

- When a contract for sale or lease is cancelled, it also cancels any other agreements under the contract, such as warranties or financing agreements.

- The customer must take reasonable care of the vehicle from the time they receive it until they return it to the dealer.
- A customer can't cancel a contract if they lease a vehicle from a dealer and then enter into a contract to buy that vehicle during or after the lease term.
- The MVDA doesn't give a registered dealer the right to cancel a contract to buy or lease a vehicle from another dealer.
- All customers have access to detailed vehicle history reports (such as CARFAX).

6.05 Summary

Customers have a legal right to cancel a contract if a dealer doesn't disclose certain specific information. The customer has up to 90 days to cancel, even if the dealer didn't know the vehicle's true history and sold it in good faith. If a customer cancels a contract, any other agreements under the contract also get cancelled, such as warranties and financing agreements.

FAST FACTS

- There are very specific disclosure errors that give a customer the right to cancel a contract.
- A customer has the right to cancel a contract even if the dealer honestly believed they disclosed accurate information.
- Cancelling the sale or lease contract also cancels any agreements under it, such as warranties and financing.



Customers have up to 90 days to cancel a contract if a dealer doesn't disclose certain specific information.

 NOTES

CHAPTER 6

6.06 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. True or false: Under the MVDA, a customer can cancel a contract only if that customer is a consumer.
2. Dealers are required to disclose all the information listed below. Customers can automatically cancel a contract if a dealer doesn't disclose three of these things. Which are they?
 - a. Make, model and model year of the vehicle
 - b. Vehicle is missing airbags
 - c. Vehicle was previously used as a taxi or limousine
 - d. Manufacturer's warranty on the vehicle was cancelled
 - e. Vehicle has been branded
 - f. Vehicle was involved in a collision
3. There are three other disclosure requirements that, if not met, can trigger a customer's rescission rights. What are they?
4. True or false: A customer who is also a registered dealer can also cancel a contract.
5. Under the MVDA, how long does a customer have to cancel a contract?
 - a. 30 days
 - b. 90 days
 - c. 180 days
 - d. One year
6. True or false: Consumers may also have up to one year to cancel a contract under the *Consumer Protection Act*.
7. What is the margin of error allowed to a dealer when they disclose the distance a vehicle has been driven (odometer reading at the date of sale or some past date)?
8. True or false: If the dealer inflated a vehicle's selling price and the value of a trade-in and the contract is cancelled, the dealer would have to pay back the inflated trade-in amount.
9. True or false: A customer can't cancel a contract if the dealer didn't know the vehicle's true history or if they honestly believed they disclosed accurate information.



CHAPTER 7

Wholesale disclosure in contracts with other dealers

- 7.01** Learning objectives
- 7.02** Introduction
- 7.03** Contract for sale or lease of a vehicle to another registered dealer
- 7.04** Summary
- 7.05** Test yourself



7.01 Learning objectives

After completing this chapter, you will understand what information registered dealers must disclose in a contract when they sell or lease a vehicle to another registered dealer.

Wholesale disclosure in contracts with other dealers

7.02 Introduction

The MVDA requires dealers to disclose certain information to customers (see Chapters 4, 5 and 6). Before they can give information to customers, dealers must first collect the information. So, when a dealer takes a vehicle in on trade, they must collect and record specific information. Similarly, when a dealer sells or leases a vehicle to another dealer, or puts a vehicle on auction, there is specific information that they must disclose.

7.03 Contract for sale or lease of a vehicle to another registered dealer

The Code of Ethics Regulations lists the following information that must be included in the contract for the sale or lease of a vehicle to another registered dealer:

For used vehicles

- Make, model, model year and trim level of the vehicle
- The total distance the vehicle has been driven
 - If the dealer can't confirm the total distance the vehicle has been driven, but can confirm a distance the vehicle had been driven as of some past date, the contract must include a statement of the distance and date, and a statement that "the total distance the vehicle has been driven is believed to be higher"
 - If the dealer can't confirm the total distance the vehicle has been driven nor a past distance and date, the contract must include 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"

Previous use

The dealer must disclose if the vehicle was previously:

- Used as a police vehicle or to provide emergency services

- Used as a taxi or limousine
- Leased (rented) on a daily basis and hasn't been owned by someone other than a dealer since then

History

The dealer must disclose if any of the following are true:

- Damage from a collision or incident was greater than \$3,000 (disclosure must include total cost of the repair, if the dealer knows)
- Vehicle has been classified under the *Highway Traffic Act* as irreparable (can't be repaired), salvage or rebuilt (disclosure must include the most recent classification)
- Vehicle was declared a total loss by an insurer, no matter what it was classified under the *Highway Traffic Act*
- Vehicle has two or more adjacent panels (not including bumper panels) that have been replaced
- Manufacturer's warranty on the vehicle has been cancelled
- Vehicle was damaged by fire
- Vehicle was damaged by immersion in liquid that reached the level of at least the interior floorboards
- There is structural damage or the vehicle has had repairs, replacements or alterations to its structure
- Vehicle was previously registered outside Ontario (disclosure must include the place where the vehicle was registered). **Note:** This doesn't apply if the vehicle has since been registered in Ontario for more than seven years
- Vehicle was recovered after being stolen

Quality or condition

- Vehicle's anti-lock braking system doesn't work
- Vehicle has missing airbags or airbags that don't work

- Vehicle's odometer is broken/faulty, has been replaced or rolled back, or is in miles
- Vehicle is significantly different from its original or advertised production specifications
- The badge or any other indication on the vehicle is for another vehicle model

Additional disclosures

- 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

Collecting the required information

Dealers should have a policy and process in place to follow these disclosure requirements. They must make sure the employees responsible for wholesaling vehicles have the trade-in disclosure documents, vehicle history reports, etc. that they need to collect the required information. And dealers must disclose the required information on the contract when selling or leasing a vehicle to another registered dealer.

7.04 Summary

By collecting and disclosing all the required information during wholesale transactions, dealers will have the information they need to disclose to retail customers. This allows both dealers and their customers to make fair and informed decisions.

FAST FACTS

- When a dealer buys a vehicle from another dealer, they must collect all the information they will later need to disclose to their customer.
- When selling or leasing a vehicle to another dealer, registered dealers must disclose facts about the vehicle's previous use, history, quality or condition and any other material facts.
- Dealers must make sure their employees follow a process to collect the required information.



Before they can give information to customers, dealers must first collect and record specific information.

 NOTES

CHAPTER 7

7.05 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. When a dealer sells a vehicle to another dealer, the selling dealer must disclose (choose all that are true):
 - a. The vehicle was previously used as a taxi, limousine or police vehicle
 - b. Damage repairs that cost more than \$3,000
 - c. The vehicle has two or more adjacent panels (not including bumper panels) that have been replaced
 - d. Selling dealers don't have to make disclosures in wholesale transactions
2. Are the MVDA requirements for sale or lease of a vehicle to another dealer listed in the General Regulations or the Code of Ethics Regulations?
3. Name two things about a vehicle's history (other than those in question 1) that a dealer must disclose when selling or leasing a vehicle to another dealer.
4. True or false: The following disclosure isn't required in dealer-to-dealer transactions; it applies to retail transactions only: 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.
5. When selling to another dealer, what must the selling dealer do if they can't confirm the total distance the vehicle has been driven?
6. A contract between two dealers for the sale or lease of a vehicle (choose all that are true):
 - a. Must disclose specific information to meet the requirements of the Code of Ethics Regulations
 - b. Must disclose exactly the same information as a contract for sale or lease of a vehicle to a consumer
 - c. Must disclose whether CAMVAP is available
 - d. Is subject to the *Consumer Protection Act*



CHAPTER 8

Disclosure in advertising

- 8.01 Learning objectives
- 8.02 Introduction
- 8.03 What is an advertisement?
- 8.04 Disclosure in dealer advertising
- 8.05 All-in price advertising
- 8.06 Advertising as-is vehicles
- 8.07 Advertising unfit vehicles
- 8.08 Advertising cost of credit
- 8.09 Lease advertising
- 8.10 Using stock photos in advertisements
- 8.11 Summary and sample ad
- 8.12 Definitions
- 8.13 Test yourself



8.01 Learning objectives

After completing this chapter, you will understand:

- The information and disclosures required in dealer advertising
- The possible penalties for dealers who don't follow these requirements

Disclosure in advertising

8.02 Introduction

The MVDA, Code of Ethics and the *Consumer Protection Act* clearly state the information dealers must disclose in advertisements for vehicles they have for sale or lease. The MVDA also requires that dealers show “all-in pricing” in their ads, if a price is shown.

If a dealer’s ad shows a price for a vehicle, that vehicle must be available to buy. If the ad is for a limited number of specific vehicles, the ad must say how many of those vehicles are available at that price.

If OMVIC believes a dealer is publishing false, misleading or deceptive ads or other materials, the Registrar can order the dealer to stop using the materials and/or take back the statement or publish a correction. A published correction must be equally visible and in the same publication as the original ad. The Registrar’s order takes effect immediately, and the dealer can appeal to the Licence Appeal Tribunal (LAT).

Dealers who don’t follow the advertising regulations can face penalties. They may also face OMVIC disciplinary action and/or have their registration suspended or revoked. The Registrar can also require that the dealer get all their ads pre-approved by the Registrar before publication for up to two years.

8.03 What is an advertisement?

A vehicle advertisement is designed to persuade someone to buy or lease. Examples of advertisements include:

- Newspaper, magazine or other print publication ads
- Website, social media or other digital media ads
- Radio or TV ads
- Billboards
- Signs (including signs in or on a vehicle)
- Information printed on a vehicle
- Any other type of advertising

OMVIC has sign templates available on its website that dealers can use to advertise on vehicles. The templates include all the required disclosure statements.

8.04 Disclosure in dealer advertising

Disclosures in vehicle advertising must be clear, comprehensible and prominent (CCP), just like disclosures in contracts. All the disclosures in this section must be written in a way that the customer can understand and that stands out on the ad.

Disclosures

Vehicle ads must include the selling dealer’s registered name and contact information of their choice; provided that the contact information is published on OMVIC’s public database of registrants. If this information can’t fit in the specific type of ad, the ad must at least say it’s been placed by a registered dealer.

The following information must also be disclosed in the ad:

The vehicle was previously:

- Used as a police vehicle or to provide emergency services
- Used as a taxi or limousine
- Leased (rented) on a daily basis and hasn’t been owned by someone other than a dealer since then

The vehicle is a used car from the current model year, or the immediately previous model year. This ensures consumers know whether the vehicle is new or used.

Note: Demonstrator vehicles (demos) are used vehicles. Dealers can’t list demos in the same part of their website as new vehicles. Demos should be listed separately, or with used vehicles.

If the ad mentions that an extended warranty is included, it must disclose the terms of the warranty and maximum claim limits (if any).

2022 USED SPECIAL



ONLY 8,840 KMS

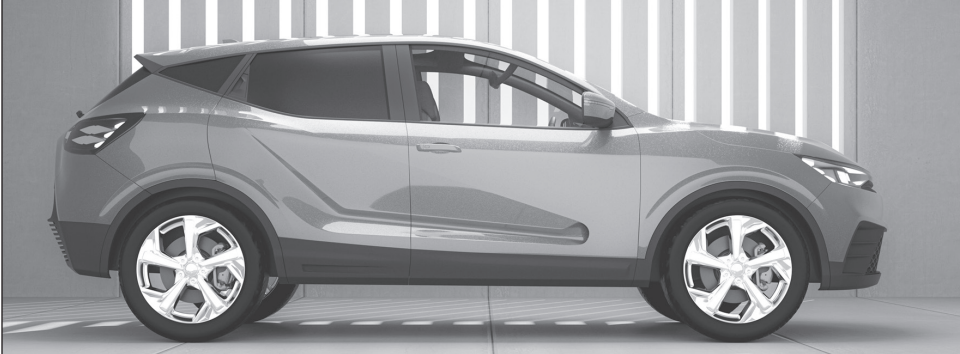
FIVE PASSENGER, CLIMATE CONTROL,
FORMERLY USED AS A COURTESY VEHICLE

Stock # 45678912 **UPTOWN MOTORS • 1-800-123-4567**

Example of an ad that discloses a vehicle's previous use

Let the adventure begin!

\$34,999 ^{+HST and Licensing}



• Leather • Cruise control • Safety package
3 year \$2,000 maximum claim limit warranty
included in purchase price

Ventureland Auto | 123 Lake Drive, Barrie | 1-800-123-4567

Example of an ad that discloses the terms of the warranty

FAST FACTS

- Dealers must follow detailed requirements for advertising vehicles for sale or lease, especially when showing a price.
- Disclosures on ads must be visible and written in a way the customer can understand, just like disclosures on contracts.
- If an ad includes a price for a vehicle, the price must include all charges. HST and licensing charges don't have to be included, as long as the ad clearly says they aren't.

Disclosure in advertising

8.05 All-in price advertising

If a dealer's ad includes a price for the vehicle, the price must include all charges related to the sale of the vehicle. This includes freight charges, inspection charges (PDI), administration fees, government levies and all other fees and charges.

Dealers don't have to include HST and licensing fees in the advertised price, as long as the ad clearly says they are not included.

Below are some more specific details from the MVDA that apply when an advertisement shows the price of a vehicle. All these disclosures must be CCP.

All other charges

The price of the vehicle must include the total of the amount the buyer has to pay including all other charges, such as freight, inspection, fees and government levies. (See exceptions below).

"All other charges" includes any charge required by the dealer, meaning the dealer doesn't give the customer the opportunity to refuse the charge, or the charge is for products or features preinstalled, mentioned in the ad or during negotiations (not including optional extras).

Dealer may sell for less

In an ad placed by two or more dealers together, the ad must say that the price for the vehicle may be less than advertised, using wording such as "Dealer may sell for less."

Fees may vary

In an ad placed by two or more dealers together, if different dealers may charge different amounts for a particular fee, the fee can be excluded from the total price shown, but it must be listed separately and say what the fee is for. For example, "The above price does not include administration fees, which vary from \$199 to \$499, depending on the dealer."

Excluding HST

Dealers can exclude the HST from the total price shown if they clearly say in the ad that it's not included. The following is an example.

2020 1500 WORK TRUCK 4x4

\$42,399

(taxes and licensing not included)

Posted 3 days ago



Automatic | Gas | 52,068 km | CARFAX Report

Show more

All joint advertisers are responsible

In an ad placed by two or more dealers together, each of the dealers is responsible for making sure the ad meets the MVDA requirements.

8.06 Advertising as-is vehicles

If an ad shows the price of a vehicle being sold as-is, the ad should include the following statement in a clear, comprehensible and prominent way:

"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."

It is not enough to simply say the vehicle is being sold as-is.

8.07 Advertising unfit vehicles

If an ad shows the price of a vehicle that isn't certified, the ad should include the following statement in a clear, comprehensible and prominent way:

"This vehicle is not driveable, not certified. Certification is available for \$XXX."

If the dealer is going to offer to certify the vehicle, the fee must be disclosed in the above statement. The dealer can't make certification a required charge.

8.08 Advertising cost of credit

The *Consumer Protection Act* (CPA) includes the disclosure requirements for advertising credit agreements.

When an ad mentions vehicle financing and shows the interest rate or payment amount, it must also disclose:

- Annual percentage rate (APR), shown in a way that stands out equally with the interest rate or monthly payment, whichever is most visible
- Length of the term
- Cash price of the vehicle (if applicable) and the cost of borrowing, unless:
 - The only cost of borrowing is the interest
 - The ad is broadcast on radio or TV, shown on a billboard or bus board, or another medium with similar time or space limitations

8.09 Lease advertising

The CPA also says an ad for a lease must disclose:

- That the ad is for a lease
- Term of the lease
- Payment amount
- APR
- Amount of the up-front payment required
- Leases with kilometre allowances less than 20,000 km/year must show the cost of kilometres in excess of (over) the limit. For example, "18,000 km/year, \$0.20/km for excess."

Radio or TV ads, or ads with time or space limitations can give customers contact information or publication to get the term and APR details.

FAST FACTS

- Specific extra rules apply if the ad is placed by two or more dealers together.
- If an ad is for a vehicle that's being sold as-is or unfit, the ad should include specific disclosure statements to make this clear.
- The *Consumer Protection Act* requires dealers make specific disclosures in ads about the cost of credit and leases.
- Dealers who don't follow the advertising regulations can face serious penalties, including charges, a discipline hearing or having their registration revoked.

Disclosure in advertising

8.10 Using stock photos in advertisements

When a vehicle ad includes a photo, dealers should do their best to use a photo of the actual vehicle advertised. If that's not possible, dealers can use a stock photo that accurately shows the same make, model, model year and condition as the actual vehicle for sale.

8.11 Summary and sample ad

Dealers are responsible for the content of their advertising. If OMVIC believes a dealer's ad is false, misleading or deceptive, it can order the dealer to stop using the material and/or order the dealer to take back or correct the message.

Dealers who don't follow the advertising regulations can face charges, a discipline hearing or have their registration revoked. OMVIC may also require the dealer to submit all of their advertising to the Registrar for pre-approval for up to two years.

The MVDA requires dealers' ads to include:

- The dealer's registered name and contact information of their choice (unless there isn't enough space or time in the ad)
- Accurate information on the vehicle history (if it was previously used as a daily rental, taxi, limousine or emergency vehicle)
- That it's a used vehicle (if applicable)
- Vehicle's availability (if the ad shows a price)

If the ad includes a price for a vehicle, that price must include freight and inspection charges, administration fees and all other fees and charges.

HST and licensing fees may be left out of the advertised price, as long as the ad clearly states that these amounts are not included in the price shown.

8.12 Definitions

GST (Goods and Services Tax): a federal government sales tax. Included in the HST.

HST (Harmonized Sales Tax): a combination of PST and GST. Dealers must add HST to the price of all vehicles they sell.

misrepresentation: a false statement that convinces someone to agree to a contract or take some other action.

PST (Provincial Sales Tax): the Ontario government sales tax. Included in the HST.

USED CLEAROUT

EVERYTHING MUST GO

AUTOMATIC

- 2018 Hatchback
- Only 2 vehicles available for this price and model
- Former daily rental



2

\$18,399

All-in Price
+ HST and Licensing

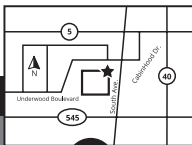
SPORT PACKAGE



\$24,999 All-in Price
+ HST and Licensing

- 2021 4-door sedan
- Only 3 vehicles available for this price and model
- 1-year extended warranty or up to 20,000 kms with \$1,500 maximum claim limit

4



5

AUTO CENTRE CARS

23 SOUTH AVENUE, CRESTVIEW

1-800-123-4567 WWW.AUTOCENTRECARS.COM

This ad meets MVDA requirements:

1. Identifies that the vehicle is a former daily rental.
2. All-in pricing includes all costs and no hidden fees.
3. Lists how many vehicles are available at this price.
4. Shows terms of the extended warranty.
5. Includes dealer name and contact information.

 NOTES

CHAPTER 8

8.13 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. If a dealer's ad shows a price for a vehicle, the price must include which of the following:
 - a. Administration fees
 - b. HST (unless the ad clearly says that HST is 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 a dealer advertises a vehicle that was previously used as a police vehicle, the ad must clearly state this.
3. True or false: If the vehicle advertised is from the current model year but it is used, the ad must clearly say that the vehicle is used.
4. If OMVIC believes an ad is false, misleading or deceptive, it can:
 - a. Take the dealer to the LAT
 - b. Sue the dealer for misrepresentation
 - c. Order the dealer to take back or correct the ad
5. Dealers that don't follow the advertising rules may have to have their ads pre-approved by OMVIC for up to:
 - a. Six months
 - b. One year
 - c. 18 months
 - d. Two years



CHAPTER 9

Extended warranties and service plans

- 9.01 Learning objectives
- 9.02 Introduction
- 9.03 Sale of an extended warranty
- 9.04 Sale of a service plan
- 9.05 Summary
- 9.06 Test yourself



9.01 Learning objectives

After completing this chapter, you will understand:

- How extended warranties must be protected or insured
- Contract requirements for sale of an extended warranty
- Contract requirements for sale of a service plan

Extended warranties and service plans

9.02 Introduction

A dealer has certain responsibilities when they sell an extended warranty or service plan to a buyer who is not a registered dealer. These responsibilities apply whether the dealer sells the warranty or service plan themselves or on behalf of a warranty company or service plan provider.

All contracts for extended warranties and service plans must include specific information. The contracts must be signed by the customer and the dealer and the customer must get a copy of the contract right after signing it. Within 30 days of selling the extended warranty or service plan, dealers have to give the warranty or service plan provider all the documents and payments from the customer. If it's an extended warranty, they must also give the warranty company a statement (if they have one) that accurately describes the condition of the vehicle and the distance it's been driven.

The MVDA says extended warranties must either be insured or protected by the Motor Vehicle Dealers Compensation Fund. To protect an extended warranty under the Compensation Fund, the dealer must give the Fund an irrevocable letter of credit as a security. If a dealer sells a warranty that isn't insured or protected by the Compensation Fund, then the dealer will become responsible for claims if the warranty company goes out of business.

These requirements apply when the buyer or lessee is not a registered dealer.

9.03 Sale of an extended warranty

Extended warranty

Under the MVDA, this is a contract to pay for repairing or replacing parts of a vehicle, including labour costs, that adds to (extends) the coverage in the manufacturer's warranty. An extended warranty usually covers mechanical problems and not ordinary wear and tear.

All extended warranties must either be insured by a company that's licensed under the *Insurance Act* or protected by the Motor Vehicle Dealers Compensation Fund. Otherwise, the dealer becomes responsible for claims if the warranty company goes out of business.

For a consumer to be protected by the Compensation Fund, the warranty seller must give the Fund an irrevocable letter of credit for:

- \$100,000 if the warranty seller is the dealer who sold or leased the vehicle
- \$500,000 if not

Selling an extended warranty

When a dealer sells an extended warranty, they must make sure the contract for the warranty includes the following information in a clear, comprehensible and prominent way:

- Buyer's name and address
- Warranty holder's name and address, if it's not the buyer
- Registered name (and legal name, if different), address and registration number of the dealer entering into the contract
- Name and registration number of the salesperson who is acting on behalf of the dealer, if any
- All of the warranty provider's restrictions, limitations and conditions
- A statement saying whether or not the warranty is insured, and if it is, the name and address of the insurer
- Vehicle information:
 - Vehicle identification number (VIN)
 - Make, model, model year
- Total sale price, if sold
- Lease value, if leased
- Lease value is calculated according to the *Consumer Protection Act* if:
 - Part VIII of the Act applies to the leaseOR

- Part VIII of the Act doesn't apply only because the buyer of the warranty isn't a consumer
- Description of the parts covered by the warranty that is clear enough to identify them confidently
- Description of the way the warranty extends the manufacturer's warranty, if applicable
- The start and end dates of the warranty, whether by calendar date, by kilometres driven or both
- Maximum individual claim limits, if any
- Maximum total liability
- Amount of the deductible, if any
- Sale price of the warranty, including a detailed list of all fees or costs when the customer buys it or afterwards
- Warranty holder's obligations under both this warranty and the manufacturer's warranty, if applicable
- Whether the warranty is transferable to another owner or lessee of the vehicle and the cost of transferring it, if any

The dealer must also make sure:

- Both the buyer and the dealer sign the contract
- If a salesperson is acting on behalf of the dealer, that the salesperson signs next to their name and registration number
- The buyer gets a copy of the contract right after signing it

Selling on behalf of a warranty company

If a dealer sells a warranty on behalf of a warranty company or passes along a buyer or lessee's application to a warranty company, they "facilitate the sale."

When a dealer facilitates the sale of an extended warranty, they must make sure the contract for the warranty includes the following information in a clear, comprehensible and prominent way:

- Name and address of the warranty provider
- All the same information as required for **Selling an extended warranty**, above, except the dealer and salesperson information must be for the dealer and salesperson who facilitate the sale

The dealer must make sure that both the buyer and the dealer sign the contract and that the buyer gets a copy of the contract right after signing it.

The dealer must sign the contract next to their name and registration number, and make sure the salesperson (if applicable) signs next to their own name and registration number.

FAST FACTS

- Making sure warranties are properly insured or backed protects consumers, dealers and the Motor Vehicle Dealers Compensation Fund.
- If a warranty isn't insured, the warranty seller must give the Compensation Fund an irrevocable letter of credit for \$100,000 if the warranty seller is the dealer who sold or leased the vehicle or \$500,000 if not.
- There are specific disclosures that must be included on the contract for an extended warranty. The dealer must also make sure all parties sign the contract and that the buyer gets a copy right away.
- Facilitating the sale means the dealer sells a warranty on behalf of a warranty company, or passes a customer's application to a warranty company.

Extended warranties and service plans

Within 30 days after selling the warranty, the dealer must give the warranty provider:

- All documents detailing the contract
- All payments the dealer received from the buyer
- A statement, if the dealer has one, that accurately describes the condition of the vehicle and the distance the vehicle has been driven

9.04 Sale of a service plan

■ ■ Service plan

Under the MVDA, this is a contract to provide goods and services to maintain a vehicle. The goods and services can be provided before the vehicle is delivered to the customer or afterward. Different goods and services may be included under the plan, depending on the dealership and the package.

Selling a service plan

When a dealer sells a service plan, they must make sure the contract for the service plan includes the following information in a clear, comprehensible and prominent way:

- Buyer's name and address
- Beneficiary's name and address, if it's not the buyer
- Registered name (and legal name, if different), address and registration number of the dealer entering into the contract
- Name and registration number of the salesperson who is acting on behalf of the dealer, if any
- All the service plan provider's restrictions, limitations and conditions of the plan
- A statement saying whether or not the service plan is insured, and if it is, the name and address of the insurer
- Vehicle information:
 - Vehicle identification number (VIN)
 - Make, model, model year

- List of the goods and services that the plan provides and a description of each one
- The start and end dates of the service plan, whether by calendar date, by kilometres driven or both
- Amount of the deductible, if any
- Sale price of the service plan, including a detailed list of all fees or costs when the customer buys it or during the term of the plan
- Beneficiary's obligations, if any
- Where the vehicle can be serviced under the plan
- Whether the service plan is transferable to another owner or lessee of the vehicle and the cost of transferring it, if any

The dealer must also make sure:

- Both the buyer and the dealer sign the contract
- If a salesperson is acting on behalf of the dealer, that the salesperson signs next to their name and registration number
- The buyer gets a copy of the contract right after signing it

Selling on behalf of a service plan provider

If a dealer sells a service plan on behalf of a service plan provider or passes along a buyer or lessee's application to a service plan provider, they "facilitate the sale."

When a dealer facilitates the sale of a service plan, they must make sure the contract for the service plan includes the following information in a clear, comprehensible and prominent way:

- Name and address of the service plan provider
- All the same information as required for Selling a service plan, above, except the dealer and salesperson information must be for the dealer and salesperson who facilitate the sale

The dealer must make sure that both the buyer and the dealer sign the contract and that the buyer gets a copy of the contract right after signing it.

The dealer must sign the contract next to their name and registration number, and make sure the salesperson (if applicable) signs next to their own name and registration number.

Within 30 days after selling the service plan, the dealer must give the service plan provider:

- All documents detailing the contract
- All payments the dealer received from the buyer

9.05 Summary

Extended warranties must be protected by either an insurance company or by giving a letter of credit to the Motor Vehicle Dealers Compensation Fund. This, in turn, protects consumers, dealers and the Compensation Fund.

There is specific information that must be clearly disclosed on warranty and service plan contracts. This includes the parts or services covered by the warranty or service plan, any conditions of the warranty or plan, and places where the customer can get their vehicle serviced. These details help customers understand how much protection they are getting and the value of the warranty or service plan.

FAST FACTS

- Just as for an extended warranty, if a dealer facilitates the sale of a service plan, they have to give the service plan provider the contract documents and payments from the customer within 30 days.



 NOTES

CHAPTER 9

9.06 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. List the two ways that extended warranties can be guaranteed financially.
2. If a dealer wants to sell an uninsured extended warranty, they must give the Motor Vehicle Dealers Compensation Fund an irrevocable letter of credit for:
 - a. \$100,000
 - b. \$250,000
 - c. \$500,000
 - d. \$1,000,000
3. Name three things about warranty coverage that must be included in the warranty contract.
4. Dealers must send the warranty company all documents about the contract and payments they've received within:
 - a. Two days
 - b. Seven days
 - c. Two weeks
 - d. 30 days
5. True or false: Service plans must be insured.
6. Contracts for service plans must disclose in a clear, comprehensible and prominent way:
 - a. The goods and services the plan provides and a description of each one
 - b. All restrictions, limitations and conditions
 - c. Locations where the vehicle can be serviced
 - d. Whether or not the service plan is transferrable to another owner or lessee
 - e. All of the above



CHAPTER 10

Enforcing the MVDA

- 10.01** Learning objectives
- 10.02** Introduction
- 10.03** Inspections
- 10.04** Inspection Guide & Checklist
- 10.05** Investigations
- 10.06** Summary
- 10.07** Test yourself



10.01 Learning objectives

After completing this chapter, you will understand:

- The role and authority of the OMVIC inspector
- Why it's important for dealers and salespeople to cooperate with the inspector
- The penalties for obstructing an inspector
- The powers of an OMVIC investigator

10.02 Introduction

OMVIC has inspectors and investigators who visit dealers. Their job is to handle complaints from customers and other dealers, and to make sure dealers and salespeople follow the MVDA. The law requires that dealers and salespeople cooperate fully with OMVIC inspectors and investigators.

Inspectors

OMVIC inspectors are similar to auditors. They can look at and evaluate a dealer's premises, records and vehicles. Inspectors work in different regions, so the inspection program covers the whole province.

Investigators

OMVIC investigators are provincial offences officers (similar to police officers). They can look into complaints and accusations against dealers and salespeople and can lay charges, if appropriate.

10.03 Inspections

The MVDA gives OMVIC inspectors the right to access and inspect (look closely at) a dealer's premises (business location), vehicles, vehicle parts, money and valuables. They can also examine all books and records that the dealer must maintain.

Inspectors:

- Don't have to tell the dealer before they arrive
- Must show proof of their authority to do an inspection, if the dealer asks for it
- Can take records, data storage devices or other things related to the inspection to make copies, examine them and to do their inspection
- Must give the dealer a receipt for anything they take and must return it as soon as possible
- Can use the dealer's own computer system to access information (including data storage, processing or retrieval devices)
- Keep records of their inspections and take follow-up action if necessary

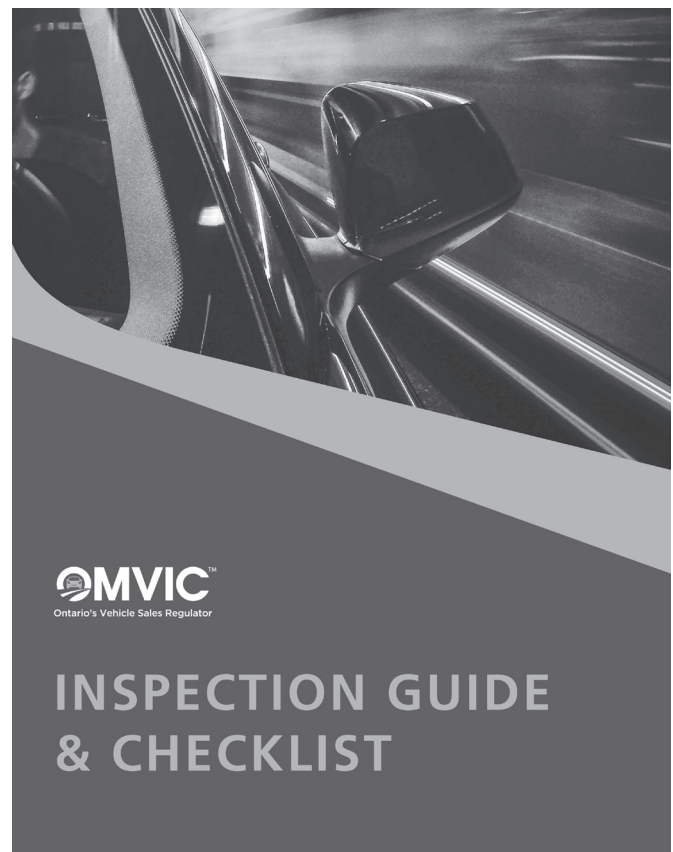
If the inspector finds any problems during the inspection, they may leave a notice with the person in charge of the dealership to make sure everyone understands the changes they must make to follow the MVDA.

Obstruction

Obstruction means blocking or getting in the way. No one can obstruct an inspector, or hold back, hide, change or destroy any money, valuables, documents, records, vehicles or vehicle parts related to an inspection.

10.04 Inspection Guide & Checklist

Most dealers understand that OMVIC's inspection program is important because it helps make sure dealers and salespeople follow the MVDA. Inspections also give dealers and salespeople a learning opportunity and a chance to ask the inspector questions.



The OMVIC Inspection Guide & Checklist helps dealers get ready for an inspection and get the most benefit from it. The guide:

- Suggests steps to take before an inspection
- Tells dealers what to expect during an inspection
- Explains what a dealer needs to do with an Inspection Findings Notice after an inspection

The Inspection Guide & Checklist is available to download from the OMVIC website.

10.05 Investigations

OMVIC investigators are appointed under the MVDA and the *Provincial Offences Act*. They have the authority to look into complaints and accusations and lay charges under several laws, including the MVDA and the *Consumer Protection Act*.

Investigations usually start after investigators get information from sources such as:

- OMVIC inspectors
- Consumer complaints
- Police
- Other dealers



There are two main categories of investigations: unregistered dealers (curbsiders) and misconduct by dealers or salespeople.

For dealers and salespeople, misconduct means not following the rules of the MVDA. Misconduct investigations are usually related to complaints about advertising, dealers not disclosing required information, falsifying records (changing records or creating false ones) or unfair business practices.

Investigators may contact dealers or salespeople who are not being investigated, or who are only indirectly involved in an investigation. Dealers and salespeople are required to cooperate with an investigation.

Investigators are allowed to take items from the dealer that are related to the investigation (including data storage devices). Usually, the investigator will return the items within a reasonable time.

Investigations can result in:

- Charges against the dealer or salesperson
- Revoking the dealer or salesperson's registration
- Disciplinary action from OMVIC

FAST FACTS

- The law requires dealers and salespeople to cooperate with OMVIC inspectors and investigators.
- Dealers can use the Inspection Guide & Checklist to prepare for a routine visit from an OMVIC inspector.
- The two main types of investigations are illegal vehicle sales/unregistered dealers (curbsiders), and dealers and salespeople not following the rules of the MVDA.

10.06 Summary

OMVIC inspectors and investigators have the right to enter a dealer's registered premises without advance notice. They are allowed to have full access to the dealer's books, records, vehicles and vehicle parts. If a dealer refuses to give the inspector or investigator access, or blocks them, the dealer can face charges or have their registration revoked or refused.



 NOTES

CHAPTER 10

10.07 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. OMVIC inspectors must give a dealer how much notice before an inspection?
 - a. 24 hours' notice
 - b. 48 hours' notice
 - c. Seven days' notice
 - d. No notice is required
2. True or false: An OMVIC inspector has the right to access dealer records, but not the vehicles on a dealer's lot.
3. True or false: If an OMVIC inspector asks a dealer for help, the dealer isn't legally required to help.
4. True or false: The inspector can't remove anything from the dealer without the dealer's permission or a warrant.
5. What is the difference between an OMVIC inspector and investigator?
6. Which of the following can an OMVIC inspector do? Choose the most correct answer.
 - a. Remove a document or a data storage device only if they have a search warrant
 - b. Copy a document only if the dealer agrees
 - c. Use the dealer's own computer system to access information
 - d. Demand help from the dealer if the inspector wants to use the dealer's computer
7. Name two sources of information that might cause an investigation.



CHAPTER 11

Avoiding curbsiders

- 11.01** Learning objectives
- 11.02** Introduction
- 11.03** How to avoid selling to curbsiders
- 11.04** Summary
- 11.05** Definitions
- 11.06** Test yourself



11.01 Learning objectives

After completing this chapter, you will understand what a curbsider is and how dealers can be sure not to sell to them.

11.02 Introduction

Curbsiders are illegal, unlicensed sellers. They're in business to sell vehicles, but often pretend to be private sellers. Curbsiders often misrepresent themselves and the vehicles they sell. It is illegal for a registered dealer to sell to a curbsider.

Selling unsafe vehicles

Some curbsiders buy vehicles that are insurance write-offs and fix them up. Often, the repairs aren't good and the vehicles aren't road worthy. The curbsider may get a false Structural Inspection Certificate and Safety Standards Certificate to hide the poor repairs. Then they sell the vehicle to an unsuspecting customer, often without proper disclosure of the vehicle's true history. These vehicles are dangerous for the customer and for anyone they share the road with.

Leaving consumers unprotected

Consumers who buy from curbsiders have no legal protection. These illegal sellers put the car-buying public at risk, and OMVIC puts a lot of effort into investigating and prosecuting them.

Harming the automotive industry

Curbsiders hurt the reputation of the automotive industry. They often compete with registered dealers and have an unfair advantage, because they ignore tax laws and avoid the business expenses (overhead) that registered dealers have.

11.03 How to avoid selling to curbsiders

Dealers can take the following steps to make sure they don't sell to a curbsider.

Register the vehicle in the buyer's name

Many curbsiders hide what they do by registering vehicles in someone else's name. They simply take the signed vehicle permit from the seller and register it directly into their customer's name.

To avoid this, dealers should check a buyer's identification and make sure they register the vehicle in the buyer's name before they hand it over.

Confirm they're registered

If a buyer says they're a dealer, ask to see their OMVIC registration certificate. By law, a dealer must show the certificate to anyone who asks to see it. If it seems like the certificate is false or has expired, dealers can check if it's valid on the OMVIC website.

Have a zero-tolerance policy

A dealer should make it clear to their managers and employees that they can't sell to curbsiders. The dealer can face charges, a discipline hearing or possibly large fines if their dealership sells to a curbsider.

Look at the garage register

Dealers should look at their garage register from time to time to see if the same buyer's name appears many times. If so, the dealer should find out why. The repeat buyer might be a curbsider.

11.04 Summary

Curbsiders are in the business of selling vehicles, but they pretend to be private sellers. Very often they give buyers false, misleading or incomplete information about the vehicles they sell. It's illegal for registered dealers and salespeople to sell to curbsiders. Dealers can help prevent curbsiders by making sure the vehicles they sell are registered in the correct buyer's name and by looking at their garage register for unexplained repeat buyers.

11.05 Definitions

garage register: dealers are required by law to keep a record of every car they buy or sell. This is called a garage register.

 NOTES

FAST FACTS

- It's illegal for a registered dealer to sell a vehicle to an unlicensed seller known as a curbsider.
- Always register a vehicle in your customer's name before you hand over the keys. It's one way to avoid selling to a curbsider.
- Some studies have found that 25% of ads that say they are from private sellers are actually from curbsiders.

 NOTES

CHAPTER 11

11.06 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. What is a curbsider?
2. What are common problems with the vehicles sold by curbsiders?
3. Studies have shown the percentage of vehicle ads that say they are private sellers but are actually curbsiders is:
 - a. 5%
 - b. 10%
 - c. 20%
 - d. 25%
4. Curbsiders:
 - a. Ignore tax laws
 - b. Avoid business expenses (overhead)
 - c. Have an unfair advantage over registered dealers
 - d. All of the above
5. List four steps a dealer can take to avoid selling vehicles to curbsiders.



CHAPTER 12

Motor Vehicle Dealers Compensation Fund

- 12.01** Learning objectives
- 12.02** Introduction
- 12.03** Who pays into the Fund?
- 12.04** Valid claims against the Fund
- 12.05** Spreading the word
- 12.06** Reimbursing the Fund
- 12.07** Summary
- 12.08** Test yourself



12.01 Learning objectives

After completing this chapter, you will understand:

- The purpose of the Motor Vehicle Dealers Compensation Fund
- Who does and does not pay into the Fund
- When a consumer can make a claim against the Fund
- Two ways to promote the Fund
- Why dealers must reimburse the Fund, and the penalties if they don't

Motor Vehicle Dealers Compensation Fund

12.02 Introduction

The Motor Vehicle Dealers Compensation Fund repays consumers who lose money because they bought or leased a vehicle from a registered dealer. The maximum claim allowed under the MVDA is \$45,000.

12.03 Who pays into the Fund?

A General Dealer or Broker pays a fee of \$324 to the Compensation Fund for each of their registered locations. They pay the fee once, when they register, and not every year. If they add a location later, then they pay the fee for that location when they register it.

The MVDA sets the amount of the fee. The money available in the fund must stay above \$3 million. If the Fund is anticipated to fall below that amount, then General Dealers and Brokers would have to make a payment to cover the shortage.

Salespeople do not pay into the fund.

12.04 Valid claims against the Fund

An eligible consumer can make a claim if they suffer a loss as a result of buying or leasing a vehicle. They can claim up to \$45,000 for losses on one proven claim against a registered dealer.

Here are some examples of valid reasons for a claim:

Police take the vehicle

If a law enforcement agency seizes (takes) the vehicle and they will not be returning it (for example, if it turns out the dealer sold a stolen vehicle).

Creditor takes the vehicle

If a creditor (someone who is owed money) legally seizes the vehicle and will not be returning it (for example, if the dealer sold a vehicle that had a lien against it). This does not apply to a creditor of the customer.

Dealer won't fix something major

If the dealer refuses to fix something that is important (material) to the consumer. This must be something the consumer had included in the contract to buy or lease the vehicle.

Dealer convicted of an offence

If the dealer has been convicted of an offence related to the purchase or lease of the vehicle (for example, if the dealer was convicted of fraud for changing the odometer).

Vehicle is unavailable

If the customer paid a deposit, but the dealer hasn't given the customer the vehicle. Or if the original vehicle isn't available and the dealer hasn't got another one that is acceptable to the customer. For example, if the customer paid a deposit on a 2022 model and the dealer tried to give them a 2021 instead. If the dealer won't refund the deposit, then the customer could make a claim against the Fund.

Dealer doesn't send documents to warranty provider

If the customer paid for an extended warranty (sold by or arranged by the dealer) and the dealer does not remit payment or documents to the warranty provider.

Dealer goes out of business

If the dealer goes bankrupt (goes out of business). For example, if the dealer was supposed to pay out a lien on a vehicle but goes bankrupt before they can do so, then the customer can make a claim for the amount of the unpaid lien.

Court order

If a court has ordered the dealer to pay the customer. For example, if the customer sues the dealer and wins because they found out the odometer had been rolled back. If the dealer can't pay or refuses to pay, the customer could claim the money from the Fund.

Rescission (cancelled contract)

If a consumer is allowed to cancel their contract under the MVDA and get a refund (see Chapter 6), but the dealer doesn't pay the refund, then the consumer could make a claim against the Fund.

12.05 Spreading the word

Most consumers don't know about the Motor Vehicle Dealers Compensation Fund. This is too bad, because the Fund offers great protection to consumers.

The Fund's Board of Trustees promotes public awareness of the Fund and tells consumers how to make a claim.

To help make customers aware of the Fund, the MVDA says the following statement must be included on all retail sale and lease contracts:

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.

See Chapter 4 for more on contract requirements.

12.06 Reimbursing the Fund

If a customer has lost money as a result of buying or leasing a vehicle, the dealer should do everything they can to repay the customer or make up for the loss.

However, if the customer makes a claim against the Fund and the Fund pays them, the dealer may have to pay the Fund back, or OMVIC may have to consider other means to recover the losses. If the losses cannot be paid, the dealer may lose their registration.

A former dealer is also required to repay the Fund for any claims against them.

A dealer who used to be an officer in a corporation that owed money to the Fund may be refused registration, both as a dealer and as part of a new corporation. That's because one of the requirements of registration is showing financial responsibility, and not paying a debt shows a lack of responsibility.

12.07 Summary

The Motor Vehicle Dealers Compensation Fund protects consumers if they lose money because they bought or leased a vehicle from a registered dealer. For example, if the customer can't get a deposit back because the dealer went out of business before handing over the vehicle, or if the vehicle the customer bought is taken away by the police because it turns out it was a stolen vehicle.

The protection the Fund offers is a great reason for consumers to buy from registered dealers. Dealers should promote this benefit to customers.

FAST FACTS

- The only dealer classes that pay into the Fund are General Dealers and Brokers.
- Dealers can have their registration revoked if their actions lead to a claim, or because their actions show they are not financially responsible.
- The Fund protects consumers. It's another good reason to buy from a registered dealer.
- If the dealer doesn't pay the Fund back for a claim, they may have their registration revoked.

 NOTES

CHAPTER 12

12.08 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. Is the Motor Vehicle Dealers Compensation Fund available to all customers, or only customers who are considered consumers?
2. How much does each salesperson pay into the Fund?
3. How much does each dealer pay into the Fund?
4. True or false: The maximum claim a customer can make is \$15,000.
5. List three types of valid claims against the Fund.
6. True or false: The Fund is like an insurance policy, so a dealer doesn't have to pay the Fund back if it pays a claim on behalf of the dealer.
7. Choose the right answer about the Compensation Fund:
 - a. The maximum claim is \$45,000
 - b. A customer can only make a claim if the dealer has gone out of business
 - c. A salesperson must pay into the Fund
 - d. Dealers pay \$300 to the Fund each year



CHAPTER 13

Consumer Protection Act (CPA)

- 13.01** Learning objectives
- 13.02** Introduction
- 13.03** Protection from unfair business practices
- 13.04** Disclosing all material facts
- 13.05** Consequences of breaking the CPA
- 13.06** Two-thirds exception on repossession
- 13.07** Financing agreements
- 13.08** Lease agreements
- 13.09** Residual obligation lease
- 13.10** Summary
- 13.11** Definitions
- 13.12** Test yourself



13.01 Learning objectives

After completing this chapter, you will understand:

- The difference between a customer and a consumer
- Two types of unfair business practices prohibited by the CPA
- What material fact means
- Penalties for retailers who break the CPA
- Consumer's right to cancel a contract or get a credit card refund
- How the two-thirds exception on repossession works
- Dealer's obligations in financing and leasing agreements under the CPA
- Maximum liability under a residual obligation lease

13.02 Introduction

The *Consumer Protection Act, 2002* (CPA), gives consumers certain rights. It sets out rules for retail transactions, both for goods (things for sale) and services, including vehicle sales, leasing and repairs. The Act applies to nearly all businesses in Ontario, not just motor vehicle dealers. There are serious penalties for people and corporations that break the CPA.

The CPA applies to transactions if either the consumer or the business is in Ontario. So, if an Ontario business sells to a consumer outside Ontario, the consumer is protected by the CPA.

The CPA only protects consumers, not businesses or someone representing a business.

A consumer's rights under the CPA can't be taken away by a statement in a contract. If a consumer signs a contract that would give up some CPA rights, the contract isn't valid and the consumer still has all their rights under the CPA.

■ Customers vs consumers

A customer is anyone who buys or leases from a dealer or gets services from a dealer. A consumer can be someone acting for personal, family or household purposes. A customer can also be a corporation or a person acting for business purposes.

Only a person acting for personal, family or household purposes can be called a consumer. A corporation or someone acting for business purposes is not a consumer.

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

13.03 Protection from unfair business practices

The CPA sets rules against unfair business practices and gives consumers options if a business doesn't follow the rules.

The CPA defines two types of unfair practices, which are described below.

False, misleading or deceptive representation

This means not disclosing a material fact or misleading a consumer about a material fact. A material fact is information that might affect the consumer's decision to buy the vehicle if they knew about it.

It would be a false, misleading or deceptive representation to tell the consumer:

- The vehicle can perform in a way it can't
- The vehicle is still under warranty when it isn't
- The vehicle is a specific model or certain quality if it isn't
- The distance the vehicle has been driven or amount it has been used is much less than it really is
- That a repair, replacement part or service is needed when it isn't
- That there's a specific price advantage if this isn't true (e.g., the price will go up Monday morning)
- That a certain fee or charge is for something it's not

Unconscionable representation

This means seriously unfair practices where the business takes advantage of a consumer. For example:

- The consumer can't protect their own interests, such as someone who is disabled, illiterate, under the influence of alcohol or medication
- The price is much higher than should be charged
- The dealer or salesperson put too much pressure on the consumer
- The consumer has no way of making the payments
- It's a terrible deal for the consumer and an excellent deal for the dealer
- The dealer or salesperson gave a misleading opinion and the consumer relied on that information to their disadvantage

Examples of unconscionable practices

A dealer is selling a four-year-old car and tells the consumer it's only had one owner. In fact, the vehicle has been owned by a leasing company for the full four years.

- This is misleading. Although the leasing company is only one owner, the dealer implied that one person has been using the car, when in fact many people have.

A consumer obviously can't read well, but the dealer lets them sign a contract anyway without explaining it to them.

- This is unconscionable. Since the consumer can't understand the language of the contract, they can't protect their own interests.

A dealer pressures a widow into buying a vehicle they know isn't suitable for her by saying her late husband would have wanted her to have it.

- This is unconscionable. The dealer used too much pressure, and also gave the consumer a misleading opinion that she relied on to her disadvantage.

13.04 Disclosing all material facts

The CPA assumes that dealers and salespeople have more knowledge, experience and access to information about a vehicle than a consumer does. That's why dealers and salespeople must disclose all material facts about a vehicle, even if the consumer doesn't ask.

Different people may consider different information "material" or important. For example, knowing a car had a minor accident might not matter to someone paying \$1,000 for a 15-year-old car, but it would probably be important to someone paying \$50,000 for a much newer vehicle.

Honest mistakes

If a dealer or salesperson didn't know about a problem, they can still be held liable (legally responsible) if they should have known. A consumer is still protected by the CPA if the dealer broke the law without knowing it.

For example, if a dealer sold a car with a rolled-back odometer but didn't know about it, they are still liable because they should have done proper research into the vehicle they were selling. The consumer is protected by the CPA and can have the contract cancelled or negotiate another way to be paid back.

Verbal statements

A dealer can be held responsible for things they say to the consumer, even if those statements aren't in the written contract. The CPA says that a court can take "oral evidence" into account when deciding a case. Oral evidence means something the dealer said while negotiating the deal but didn't write down.

FAST FACTS

- The CPA only protects consumers, not corporations or people acting on behalf of a business.
- Misleading a consumer about important information is an unfair practice under the CPA.
- Taking advantage of a consumer is also an unfair business practice under the CPA.
- Even if the dealer didn't know they broke the rules of the CPA, or if they said something but didn't write it in the contract, they can still be held responsible under the CPA.

Ambiguous wording in contracts

If the wording of any agreement (such as a contract, bill of sale or lease) can be understood in more than one way (is ambiguous), the meaning will be interpreted in favour of the consumer and against the dealer. That's why it's important that all contracts are clear and not ambiguous.

13.05 Consequences of breaking the CPA

Penalties for retailers

If a person is found guilty of breaking the CPA, they can get a maximum of two years less a day in jail and/or a fine of up to \$50,000. If a corporation is found guilty, the maximum fine is \$250,000.

Consumer can cancel the contract

If a consumer believes they were the victim of an unfair business practice (as described above), they have one year to ask the business to cancel the contract. After a year they can't have the contract cancelled but can still sue the business.

Credit card refunds

If a consumer has the right to a refund under the CPA for something they bought with a credit card, they can ask the credit card company to refund them if the dealer hasn't done so within 60 days.

The consumer can also file a complaint with OMVIC about the dealer not giving them a refund.

It's up to the credit card company to use their discretion when it comes to refunds.

13.06 Two-thirds exception on repossession

If a consumer defaults on (doesn't pay) their loan or payment plan but has paid off more than two-thirds of the total purchase price, the dealer has to get permission from the court before they can repossess (take back) the vehicle. This is true even if the dealer has a lien on the vehicle.

13.07 Financing agreements

If a dealer helps a consumer get financing (a loan) for a vehicle, the CPA requires the dealer to give the consumer an Initial Disclosure Statement (IDS) or a Lease Disclosure Statement (LDS) before they sign the contract. Usually, the consumer should get one of these when they agree to buy or lease the vehicle.

Initial Disclosure Statement (IDS)

The IDS must include:

- What the consumer will get from the lender and when and how they'll get it (e.g. the vehicle, cash rebate, payment for warranty premiums or other fees, etc.)
- Term (length) of the agreement
- Amortization period (time allowed to pay off the loan), if different from the term (usually they're the same in vehicle transactions)
- Cost of borrowing, including:
 - Interest rate (charge for borrowing, given as a percentage)
 - Whether the interest rate may change during the term and an explanation
 - When the lender will start charging interest
 - When interest will be compounded (added to the loan debt)
 - Annual percentage rate (APR)
- Payment information, including:
 - Total of all payments the consumer has to make
 - Payment schedule
 - Explanation of how each payment will be applied against the principal (amount borrowed) and interest on the loan
 - Any prepayment rights, charges or penalties
 - Any other payments the consumer must make as a condition of borrowing (other than interest)
- Details of any grace period (e.g. if there is no interest for the first year of the term)

- Information about optional services (including price, description, cancellation rights), unless the dealer has given the consumer a separate statement for these services
- What the refund will be if the consumer pays off the full amount early
- Charges the consumer will have to pay if they don't fulfill their responsibilities
- Whether there is mandatory insurance and an explanation that the consumer doesn't have to buy insurance through the dealer

Extra MVDA requirements

The MVDA includes requirements for dealers to make sure the consumer gets the disclosures required by the CPA. For example, the MVDA says if a dealer sells a vehicle and also provides financing or arranges financing for the buyer, they must make sure the terms of the financing agreement are the same as the information on the purchase contract or lease agreement.

13.08 Lease agreements

The CPA states that:

- The conditions and warranties in the *Sale of Goods Act* also apply to vehicle leases – merchantable quality, fitness for purpose and freedom from liens. See Chapter 16
- There are restrictions on the amount that can be charged on a residual obligation (open-end) lease (see 13.09 below)
- Lease agreements and advertisements must disclose the cost of credit

The CPA requires that advertisements for vehicle leases must disclose:

- That it is a lease
- Length of the lease
- Any payment the customer must pay before or at the start of the lease
- Amount of the monthly payment
- Any other payments and how they are calculated
- How much the lessee will be charged if they go over the mileage allowance, and how that's calculated
- APR for the lease – this must be just as large and visible as the most visible lease payment on the ad

If the ad is for more than one lease, then it must explain that the disclosures are for a "representative" lease that's a fair example of all the leases being advertised. There are special requirements for ads with time or space restrictions, such as radio ads or billboards.

FAST FACTS

- Penalties for offences under the CPA are serious: up to two years in jail and/or a fine of up to \$50,000 for individuals and up to \$250,000 for corporations.
- The CPA says a dealer has to give a consumer specific disclosure statements if they help the consumer get financing for a vehicle.
- The CPA extends the conditions of the *Sale of Goods Act* to vehicle leases.

Consumer Protection Act (CPA)

Lease Disclosure Statement (LDS)

The LDS must be in writing and disclose:

- That it's a lease
- Length of the lease
- Fair and accurate description of the leased vehicle
- Lease value of the vehicle (similar to what a customer would pay for the vehicle if they bought it with cash)
- Any payment the customer must pay before or at the start of the lease
- Amount of the monthly payment
- Number of monthly payments
- Capitalized amount
- Estimated residual value of the vehicle, if applicable (see 13.09, below)
- If it is an option lease, complete details of how the option may be exercised (see 13.09, below)
- If it is a residual obligation lease, complete details of the lessee's liability at the end of the lease (see 13.09, below)
- Conditions for either the lessee or lessor to cancel the lease early and how the lessee's payment would be calculated
- Any other payment the lessee has to make (including a calculation for unreasonable or excessive wear or use)
- Implicit financing charge (IFC)
- APR
- Total lease cost, which is the total cost of the lease, including the amount for the vehicle, interest, APR, etc.

Dealer's responsibility

The CPA says the dealer must disclose the above information in a clear, comprehensible and prominent way.

If the consumer signs more than one agreement (e.g. a lease and a purchase agreement), the information required on the LDS should be on both documents. If the dealer can't include all the information on

both, they can include a statement saying that the consumer received the details in another agreement (and have the consumer initial the statement).

13.09 Residual obligation leases

Option lease or closed-end lease

The most common type of vehicle lease is called an option lease or closed-end lease. With this type of lease, the customer can return the vehicle at the end of the lease or buy the vehicle at a pre-arranged price. The customer doesn't have to pay anything else, unless they have driven more than the maximum mileage, or the vehicle has too much wear and tear.

Residual obligation lease or open-end lease

The other type of lease is called a residual obligation lease or open-end lease. With this type of lease, the lessor estimates what the value of the vehicle will be at the end of the lease term. This is called the residual value. At the end of the term, the lessee must pay the lessor any difference between the estimated residual value and the realizable value, which is how much the vehicle is actually worth at the end of the lease term. This type of lease is less common than an option lease because of the risk the lessee takes by not knowing how much they have to pay at the end of the lease.

residual value: an estimate of how much the vehicle will be worth at the end of the lease contract.

realizable value: the amount the vehicle is actually worth at the end of the lease contract.

Maximum liability under a lease

The CPA sets a maximum amount the lessee is liable for (responsible for paying) at the end of the lease term.

- This includes any termination fee (end of contract fee) **(P)**
- plus the difference between the estimated residual value of the vehicle **(V)**
- and the realizable value **(R)**.

The mathematical formula looks like:

$$P + (V - R)$$

Note: A termination fee must be disclosed in the original lease agreement.

How to calculate realizable value

The realizable value of the vehicle is calculated as the highest of:

- A. The price the lessor sells the vehicle for (not including taxes)
- B. 80% of the estimated residual value
- C. The estimated residual value less the value of three monthly payments

For example, if:

Lessor sells vehicle for \$1,400 at the end of the lease

Estimated residual value = \$2,000

Monthly payments = \$400

Then the realizable value is the highest of:

- A. \$1,400
- B. \$1,600 (80% of \$2,000)
- C. \$800 (\$2,000 - [3 X \$400])

The highest amount is \$1,600, so that's the realizable value of this vehicle.

The dealer can charge the customer the difference between the residual value (\$2,000) and the realizable value (\$1,600), plus any termination fee (for this example, \$100):

$$\$100 + (\$2,000 - \$1,600) = \$500$$

$$\begin{array}{ccccccc} \uparrow & & \uparrow & & \uparrow & & \uparrow \\ P & + & (V & - & R) & = & \text{Maximum liability under a lease} \end{array}$$

Excess wear and tear charge: The CPA includes another calculation to help limit how much dealers can charge for excessive wear and tear on the vehicle. This is the difference between the actual sale price of the vehicle and the calculated realizable value.

Using the example above, the difference between the actual sale price (\$1,400) and the calculated realizable value (\$1,600) is \$200. So, the dealer can charge the customer up to \$200 if they can show there is too much wear and tear on the vehicle.

Maximum charge to the consumer: In this example, the maximum the dealer can charge the customer at the end of the residual obligation lease is \$700 (\$500 + \$200).

Review CPA Regulation 76 for more detailed information on calculating the maximum liability on a residual obligation lease.

FAST FACTS

- A Lease Disclosure Statement must disclose specific things in a clear way that the consumer can understand.
- If there is too much wear and tear on the vehicle at the end of the lease, the lessor can also charge for this.

Consumer Protection Act (CPA)

Net sale proceeds

Dealers can't deduct their costs for selling a leased vehicle from the vehicle's realizable value. This is sometimes referred to as "net sale proceeds."

For example, if at the end of a lease a dealer sells a vehicle at an auction for \$5,000 and has to pay \$300 in auction fees, they can't say the net sale proceeds were \$4,700. The actual sale price was \$5,000 and this amount must be used to calculate the realizable value of the vehicle.

The dealer can only get the cost of selling a vehicle back if they originally disclosed the cost on the lease contract as termination fees or end-lease charges.

13.10 Summary

The CPA says retailers can't say or do things that are "false, misleading, deceptive or unconscionable." Consumers who have been victims of unfair practices have options under the law, such as the right to cancel a contract within a year. The CPA also sets serious penalties, including possible fines and jail time, for people and businesses that break the law.

The CPA has specific requirements that dealers must follow when they advertise the cost of credit, and in financing and lease agreements. Dealers must also add a specific lease disclosure statement to lease agreements.

The CPA doesn't apply to all customers. It only applies to people acting for personal, family or household purposes, known as consumers. Corporations and people acting for business purposes are not protected by the CPA.

13.11 Definitions

amortization period: the amount of time allowed to pay off a loan.

annual percentage rate (APR): the combination of the interest rate and any other costs or fees associated with financing. APR is given as a percentage. For example, if there's a financing fee of \$599 and annual interest rate of 2.5%, the APR would be 2.9%, which accounts for both the fee and interest.

capitalized amount: as defined by the CPA, this is the total amount after all additional costs have been added in and any up-front payments have been deducted.

cost of borrowing: the total amount it costs the consumer to borrow the money to buy the vehicle, expressed in dollars. It's the amount the consumer pays over and above what a cash customer would pay.

implicit financing charge (IFC): the total amount it costs the consumer to borrow the money to lease the vehicle, expressed in dollars.

interest rate: the amount a lender charges a borrower for the loan. It's a percentage of the amount borrowed (the principal).

loan principal: the amount of money borrowed.
representation: (according to the CPA) a spoken or written statement, claim, offer, request or proposal about supplying goods or services to a consumer, or about payment for goods or services supplied to a consumer.

unconscionable representation: seriously unfair practices where the business takes advantage of a consumer. See Chapter 13.03.

 NOTES

FAST FACTS

- Dealers can't charge consumers for any costs they must pay to sell a vehicle at the end of a lease, such as auction fees.

 NOTES

CHAPTER 13

13.12 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. What is the difference between a customer and a consumer?
2. True or false: The CPA only protects consumers.
3. True or false: A carpenter buying a van for their small business would be protected by the CPA.
4. True or false: The CPA only covers sales, and not leases or services such as repairs.
5. True or false: A consumer can waive their rights under the CPA as long as they do so in writing.
6. What is the maximum penalty for an individual person convicted under the CPA?
7. True or false: In cases related to the CPA, courts will only look at what's written in the contract.
8. True or false: If a consumer defaults on a loan after making two-thirds of the payments, the dealer must get permission from the court before they can take back the car.
9. What are the two types of unfair business practices?
 - a. Unconscionable representations
 - b. Ambiguous representations
 - c. Disingenuous representations
 - d. False, misleading or deceptive representations
10. Give three examples of a "false, misleading or deceptive" action.
11. What does "unconscionable representation" mean?
12. Give three examples of an unconscionable representation.
13. What does "material fact" mean?
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: A consumer isn't protected if the dealer broke the CPA without knowing it.



CHAPTER 14

Repairs

14.01 Learning objectives

14.02 Introduction

14.03 Repairs

14.04 Invoice for repairs

14.05 Summary

14.06 Definitions

14.07 Test yourself



14.01 Learning objectives

After completing this chapter, you will understand:

- The act that regulates vehicle repairs
- Requirements for a repair estimate
- Requirements for replacing parts
- Legally required warranty on repairs
- Authorizing repairs over the phone
- Sign at the dealership
- Statement that must be on every repair invoice
- Importance of a detailed repair invoice

14.02 Introduction

Motor vehicle repairs are covered under the *Consumer Protection Act* (CPA), not the MVDA. The CPA only protects consumers. Consumers are customers acting for personal, family or household purposes, not business purposes. A consumer doesn't include a corporation.

Dealers must follow specific legal requirements if they offer to repair a consumer's vehicle. These requirements cover estimates, authorizations, installing parts and warranties.

See Part VI of the CPA, Repairs to Motor Vehicles and Other Goods for more information.

14.03 Repairs

Dealers and anyone else repairing motor vehicles must follow these rules from the CPA:

Estimates

The dealer must give the consumer an estimate of how much repairs will cost. The final bill can't be more than 10% above the estimate. Or, if the consumer doesn't want an estimate but tells the dealer the maximum they are willing to pay for the repair, then the final bill can't be more than that maximum.

Insurance jobs

If an insurance company is paying for the repair, the dealer can't give a higher estimate or charge more than if the job was being paid for directly by the consumer.

Replacement parts

If the dealer replaces a part of the vehicle, they must offer the consumer the old part without the customer asking. They must give the consumer the part in a clean container.

Legally required warranty

If the repair includes new or reconditioned parts, then they must come with a minimum warranty of 90 days or 5,000 km, whichever comes first. This

warranty is for parts and labour. If the consumer has to get the warranty repair done somewhere other than the dealer who did the original repair, then they can be repaid by the original repairer for the cost of the second repair plus reasonable towing charges, if applicable.

If the consumer misuses or abuses the vehicle, then they don't have a right to any part of the warranty.

Written invoice

The dealer must give the consumer a written invoice for the repair.

Phone authorization

The dealer should have the consumer sign a written authorization (give their permission in writing) before doing any repair work. However, the customer can also give authorization over the phone if the dealer writes down four pieces of information:

- Name of the person authorizing
- Phone number of the person authorizing
- Date of the phone call
- Time of the phone call

Sign at the dealership

The dealer must post a sign at the dealership saying:

- The dealer's obligation to give an estimate
- How labour charges are calculated (hourly rate or flat rate, how much to diagnose the problem)
- Details of any commission the dealer gets on selling parts
- List of other possible charges (e.g. vehicle storage or delivery, charge for a loaner vehicle)
- That each part removed will be available for the consumer

14.04 Invoice for repairs

The CPA requires that invoices be in writing and include:

- Name of the consumer
- Name of the repairer and business name of the repairer, if different
- Business address, phone and fax numbers and email address of the repairer
- Make, model, VIN and licence plate number of the vehicle
- Date the consumer authorized the work or repairs
- Date the work or repairs were completed
- Date the vehicle is returned to the consumer
- Odometer reading when the consumer authorized the work, and when they got the vehicle back
- Exact description of the work or repairs done
- Itemized list of the parts installed and whether each part is:
 - New part from the original equipment manufacturer (OEM)
 - New part that is not OEM
 - Used or reconditioned part
- Amount the consumer is charged for each part
- Itemized list of shop supplies used and how much the consumer is being charged for each
- Total charge for labour and the way the cost is calculated, including:
 - Number of hours billed
 - Flat rate charge, if a flat rate was used for any part of the work or repairs
 - Amount charged for diagnosing the problem, if any
- Itemized list of all other goods and services the consumer is being charged for (such as storage, delivering the vehicle, loaner vehicle, etc.)
- Whether the consumer decided not to take any of the parts that were removed, and whether this affected the price
- Total amount billed and the terms and ways to pay
- The following statement must appear on every repair invoice:



The *Consumer Protection Act, 2002*, provides you with rights in relation to having a motor vehicle repaired. Among other things, you have a right to a written estimate. A repairer may not charge an amount that is more than ten (10) percent above that estimate. If you waived your right to an estimate, the repairer must have your authorization of the maximum amount that you will pay for the repairs. The repairer may not charge more than the maximum amount you authorized. In either case, the repairer may not charge for any work you did not authorize. If you have concerns about the work or repairs performed by the repairer or about your rights or duties under the *Consumer Protection Act, 2002*, you should contact the Ministry of Public and Business Service Delivery.

FAST FACTS

- The *Consumer Protection Act* sets the rules for repairs. Both motor vehicle dealers and other repairers have to follow these rules.
- A consumer can give permission for the repairs in writing or by phone. If they do so by phone, the dealer or repairer has to record four pieces of information.
- Repair invoices must be in writing and must include specific information as well as a statement about the consumer's rights.

14.05 Summary

The CPA sets out rules for motor vehicle repairs. It clearly explains that the dealer or repairer must:

- Give estimates in writing
- Offer to return old parts to the consumer
- Give a 90 day or 5,000 km warranty when parts are replaced
- Record certain information if the consumer authorizes the work over the phone
- Post signs that explain some of the dealer's obligations and repair costs
- Give written invoices that include all the information required by the CPA

14.06 Definitions

warranty: a guarantee, commitment or promise. Often a promise to repair or replace something if it breaks within a specific period of time.



 NOTES

CHAPTER 14

14.07 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. Which Ontario law regulates motor vehicle repairs?
 - a. *Motor Vehicle Repair Act*
 - b. *Consumer Protection Act*
 - c. *Motor Vehicle Dealers Act*
 - d. None of the above
2. True or false: Dealers and other repairers must provide estimates for repairs.
3. True or false: Final repair costs can't be more than 10% over the estimate.
4. List five pieces of information that have to be on all repair invoices.
5. If parts needed to be replaced, how long is the warranty on the repair?
 - a. 90 days or 5,000 km (whichever comes first)
 - b. 180 days or 10,000 km (whichever comes first)
 - c. There is no warranty on repairs unless it is written on the invoice
6. If a dealer replaces a part, what happens to the part? Choose the most correct answer.
 - a. The consumer can ask for the old part
 - b. The dealer must offer the old part to the consumer
 - c. The dealer has to tell the consumer the part is greasy or dirty
 - d. The dealer can keep the old part
7. What four pieces of information must the dealer write down if the consumer gives permission by phone to do repairs?
8. A dealer or repairer must post signs with what information?
 - a. Labour charges and how they are calculated
 - b. Dealer has to give the consumer an estimate
 - c. Consumer can have any parts that are removed
 - d. All of the above



CHAPTER 15

Researching a vehicle

- 15.01** Learning objectives
- 15.02** Introduction
- 15.03** Total distance a vehicle has been driven
- 15.04** Researching distance driven
- 15.05** Liens
- 15.06** Summary
- 15.07** Test yourself



15.01 Learning objectives

After completing this chapter, you will understand:

- How a dealer or salesperson must disclose that they think the vehicle has been driven further than the odometer reading shows
- What to do when an odometer has been replaced
- How to research and find out the true distance a vehicle has been driven
- Why it's important to check for liens on vehicles and give clear title to customers

15.02 Introduction

Dealers must research the vehicles they advertise and sell so they can disclose accurate information to their customers. This includes finding out if the odometer reading is accurate and checking if there are liens on the vehicle.

Doing proper and thorough research is called “due diligence.”

Due diligence

Taking all the steps that a reasonable person would take to carefully research something to satisfy a legal requirement.

The research the dealer does must also let them meet all disclosure requirements, including the requirement to disclose “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.”

15.03 Total distance a vehicle has been driven

A dealer must disclose how far a vehicle has been driven. They usually get this information from the vehicle’s odometer. However, if the dealer can’t find out the total distance a vehicle has been driven, the MVDA requires that they give the customer specific information. It is not enough to have the customer sign on the contract next to the words “true kilometres unknown” (TKU) or “true mileage unknown” (TMU).

Disclosures when mileage can’t be confirmed

As discussed in Chapters 4 and 5, if the dealer can’t confirm the total distance the vehicle has been driven, but can confirm a distance the vehicle had been driven as of some past date, the contract must include a statement of the distance and date, and a statement that “the total distance the vehicle has been driven is believed to be higher.”

If the dealer can’t confirm the total distance the vehicle has been driven nor a past distance and date, the contract must include 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.”

Broken, replaced or rolled-back odometers

The dealer must also disclose if the odometer is broken or not working properly, has been replaced or rolled back or is in miles (instead of kilometres).

It is an offence to change the reading of an odometer from the actual distance a vehicle has been driven.

If the dealer sells a vehicle with a rolled-back odometer, the MVDA says they are liable (legally responsible) to the customer even if the dealer made an honest mistake and didn’t know the odometer was rolled back. That’s why it’s so important for dealers to thoroughly research the vehicles they sell.

15.04 Researching distance driven

Here are some ways dealers and salespeople can research vehicles:

Do a thorough check of the vehicle’s physical condition.

Be suspicious if the odometer reading seems unusually low for the age or condition of the vehicle.

Check service records or oil change stickers for mileage, or call the garage or dealer who last serviced the vehicle.

Contact the vehicle’s previous owners to confirm mileage.

Check the manufacturer’s warranty records, which include the odometer readings when the vehicle is serviced or repaired under warranty.

Check vehicle history reports like CARFAX or Auto Check.

Check the Used Vehicle Information Package (UVIP) for past odometer readings.

Order transfer documents from the Ministry of Transportation, which show the odometer reading when a vehicle's registration is transferred. **Note:** It can take some time to get these documents, and the Ministry charges fees for them.

15.05 Liens

A vehicle must have "clear title" before a dealer can sell it. Clear title means there are no liens against the vehicle.

A lien is a claim against a vehicle as security (collateral) for payment of a debt. A lien gives a creditor (someone who lends money) or a repairer who hasn't been paid for repairs a legal right to take the vehicle if the debt isn't paid.

For example, if someone borrows money from a bank to buy a vehicle, then the bank registers a lien against the vehicle. If the person doesn't pay back the loan, the bank can take the vehicle. A garage can also register a lien on a vehicle against payment for repairs. It's possible for both a bank and a garage to have liens on the same vehicle.

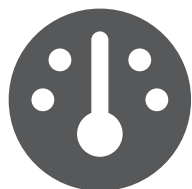
Selling a vehicle with a lien on it

A vehicle shouldn't be sold with an existing lien on it. If a dealer takes a vehicle on trade that has an existing lien, then the dealer should pay off the debt or take the vehicle back from the buyer. To avoid unexpected problems, dealers should do a lien check on any vehicle they plan to buy or take on trade. If a seller says that a lien is about to be discharged (removed after the debt is paid) or has just been discharged, the dealer should get written confirmation from the lien holder. Dealers should still do a lien check to make sure there aren't any other liens.

Paying out a lien on a trade-in

If a dealer agrees to pay out a lien on a customer's trade-in vehicle, OMVIC requires the dealer to pay it immediately and give the customer a release letter from the creditor (if they provide one).

If a dealer doesn't pay out the lien on a trade-in immediately or sells a vehicle that still has a lien on it, they could have their registration suspended immediately or revoked.



If a dealer sells a vehicle with a rolled back odometer, they are legally responsible even if they didn't know.

FAST FACTS

- Dealers must research the vehicles they advertise or sell so they can properly disclose all the required information about the vehicle to the customer.
- If a dealer sells a vehicle with a rolled back odometer, they are legally responsible even if they didn't know.
- If a dealer sells a vehicle that still has a lien on it or doesn't pay out a lien on a trade-in immediately, they could have their registration suspended or revoked.

15.06 Summary

The disclosures required by the MVDA are intended to protect customers. When dealers do due diligence to research a vehicle and make proper disclosures, they protect themselves and the customer. The research includes:

- Checking odometer readings and providing proper disclosure statements if the mileage can't be confirmed
- Doing a lien check to make sure the vehicle has clear title, or paying out liens right away



 NOTES

CHAPTER 15

15.07 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. Explain four ways to research or confirm the distance a vehicle has been driven.
2. Why should a dealer do a lien check on a vehicle they're taking on trade?
3. Is it possible for a vehicle to have more than one lien against it?
4. If a dealer agrees to pay out a lien on a customer's trade-in, the lien must be paid out:
 - a. Within five business days
 - b. Within two weeks
 - c. Any time before they sell the vehicle
 - d. Immediately
5. True or false: If a dealer pays out a lien on a customer's trade-in, they must give the customer a copy of the release letter from the creditor.
6. True or false: A customer should do a lien check on a vehicle they plan to buy from a dealer.



CHAPTER 16

Sale of Goods Act

- 16.01** Learning objectives
- 16.02** Introduction
- 16.03** As-is sales
- 16.04** Other conditions of sale
- 16.05** Return a deposit if no contract is signed
- 16.06** Customer doesn't complete the sale
- 16.07** Damages (costs of resale)
- 16.08** Summary
- 16.09** Definitions
- 16.10** Test yourself



16.01 Learning objectives

After completing this chapter, you will understand:

- What the *Sale of Goods Act* means by:
 - Merchantable quality
 - Fit for purpose
 - Quiet possession
- Requirements of as-is sales
- Dealer's obligation for conditions of sale
- What happens to a deposit if no contract is made
- What happens if the customer refuses to complete the sale
- Damages a dealer can take out of a deposit

16.02 Introduction

The *Sale of Goods Act* says vehicles a dealer sells must be of “merchantable quality” and “fit for purpose,” and that the buyer must receive “quiet possession.” Below is an explanation of these terms.

Merchantable quality

To be of merchantable (sellable) quality, a vehicle must provide transportation. It can’t have any hidden defects that would affect the price, and the vehicle must provide reasonable transportation for a reasonable period of time.

Fit for purpose

Vehicles must be suitable for the purpose they are intended to be used for. For example, if a someone buys a truck and tells the salesperson that they will use it to haul loads of gravel, then the truck must be strong enough to be used for this purpose.

Quiet possession

A buyer has the right to trust that the vehicle they bought won’t be taken because it has a lien on it or because it turns out to be stolen. Even if the dealer didn’t know about the lien or that the vehicle was stolen, the buyer has the right to get all their money back from the dealer.

These three things are conditions of a vehicle sale, but don’t need to be written in the contract. They are implied conditions under the *Sale of Goods Act*.

The *Sale of Goods Act* doesn’t cover leases or services like repairs. However, the *Consumer Protection Act* (CPA) extends the implied conditions from the *Sale of Goods Act* to cover consumer leases.

16.03 As-is sales

The *Sale of Goods Act* requires that any vehicle sold must provide transportation. But what about a vehicle that isn’t road worthy and is being sold as-is?

If a dealer sells a vehicle as-is, it’s not enough to say to the customer or write on the contract that it’s as-is or doesn’t have a Safety Standards Certificate

(SSC). The dealer can still be held legally responsible for selling a vehicle that isn’t able to provide transportation.

Dealer requirements

To protect themselves, dealers must always include disclosure about the condition of the vehicle and its intended purpose in the contract. They must also include the following statement in bold print and have the buyer initial it:

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.

See Chapter 4 for more on disclosures in contracts. Having a buyer read and initial this statement makes it harder for them to argue later that the implied conditions and warranties of the *Sale of Goods Act* should apply to the vehicle they bought.

Dealers should also know that:

- They shouldn’t let a customer drive off the lot in a vehicle sold as-is
- Vehicles sold as-is can’t be sold with an SSC
- Some parts of the *Environmental Protection Act* also apply to as-is sales

16.04 Other conditions of sale

In contract law and in the *Sale of Goods Act*, a “condition” means an essential requirement that must be fulfilled for a deal to go through. If a dealer doesn’t fulfill a condition, the customer can cancel the contract and sue the dealer.

Some conditions should be written in the contract, such as conditions for financing or repairs.

For example:

- If a vehicle is sold conditionally on approval of financing, insurance or on approval of a spouse or parent, this means that the deal can't go through until the buyer gets the approval.
- If a vehicle is sold conditional on a repair or some other work being done (such as installing a roof rack), then the deal can't be completed until the dealer fulfills that condition.

16.05 Return a deposit if no contract is signed

If a customer gives a dealer a deposit or a trade-in vehicle before they sign a written contract to buy or lease a vehicle, the customer can ask for the deposit or trade-in vehicle back at any time. This only applies if the customer isn't a registered dealer.

A customer isn't considered to have entered into a contract until they have signed an agreement that includes all the disclosures the MVDA requires.

This applies even if:

- The dealer isn't the dealer selling or leasing the vehicle to the customer (for example, if the dealer uses a third-party leasing company)
- The customer doesn't sign a contract to buy or lease a vehicle

16.06 Customer doesn't complete the sale

Once the dealer and the customer sign a contract, they are both legally required to complete the deal. However, many customers mistakenly think they have a cooling-off period of 10 days to change their mind. That's why the MVDA requires a dealer to disclose on the contract that the sale is final.

A customer only has to sign the contract at the end of negotiations, when both the dealer and customer are ready to commit to the deal. It's an unfair business practice to ask the customer to sign any earlier, or to tell them their signature doesn't commit them to completing the purchase. If a dealer does this, then the contract may not be enforceable.



Many customers mistakenly think they have a cooling-off period of 10 days to change their mind.

FAST FACTS

- There are three implied conditions of vehicle sales under the *Sale of Goods Act*.
- Some conditions should be written into a contract and some are implied conditions, such as the ones under the *Sale of Goods Act*.
- A dealer has to return the deposit or trade-in if a customer cancels a deal before signing a contract.
- A dealer has three options if a customer cancels a signed contract, but they should usually choose the easiest and cheapest one.

What to do when a customer cancels a signed contract

If a customer wants to cancel a signed contract, the dealer has three options:

- Refund the customer's deposit
- Keep damages
- Sue to force the customer to take the vehicle

The third option may not be practical. Courts usually expect people to find the quickest and least expensive way to solve a legal dispute. This is called "mitigation of damages" (meaning reducing the cost of the problem). Going to court to force a customer to go through with a deal costs money and time, and meanwhile the vehicle sits unsold on the dealer's lot. In the end, the court may expect the dealer to cover their expenses by selling the vehicle to someone else and claiming the difference as liquidated damages (expenses the dealer faces because the contract was cancelled).

The quickest and cheapest solution is for the dealer to accept that the customer is backing out of the deal and to sell the vehicle to someone else.

Another option is to simply let the customer cancel the contract and give them back their deposit or trade-in vehicle. The dealer may want to do this for the sake of good customer relations, or if they can resell the vehicle easily.

16.07 Damages (costs of resale)

In legal terms, damages are money that compensates (repays) someone for losses (such as costs) caused by someone else's unfair or unlawful actions. For example, if a customer cancels a signed contract to buy a vehicle, the dealer may have to pay for more advertising, storage or a new SSC to resell the vehicle. Those costs are damages.

A customer who backs out of a signed contract may pay the dealer back for the damages if the dealer asks them to. The costs must be reasonable, and the dealer must give the customer evidence of the costs.

The dealer can take their costs out of the customer's deposit and return the rest to the customer. If the dealer's costs are more than the deposit, they can demand the customer pay the rest.

16.08 Summary

The *Sale of Goods Act* gives consumers implied conditions and warranties when they buy a vehicle. These are that the vehicle must be of "merchantable quality," "fit for purpose" and that the buyer must get "quiet possession."

It's important that a dealer includes the required disclosure statement in the contract when they sell a vehicle in as-is condition.

Dealers have three options when a customer backs out of a contract:

- Cancel the contract and resell the vehicle
- Take the costs of reselling the vehicle out of the customer's deposit and return the rest
- Demand that the customer goes through with the deal, although dealers rarely do this since it is expensive to go to court

16.09 Definitions

implied condition: an essential requirement of a contract that is not written in the contract, but that has to be fulfilled for the deal to go through.

 NOTES

FAST FACTS

- If a customer cancels a deal after signing the contract, the dealer can ask them to repay reasonable costs of reselling the vehicle.

 NOTES

CHAPTER 16

16.10 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. What does “merchantable quality” mean for a used vehicle?
2. True or false: The *Sale of Goods Act* covers repairs.
3. Under the *Sale of Goods Act*, vehicles sold must (choose all that apply):
 - a. Provide reasonable transportation for a reasonable period of time
 - b. Be covered by a 30-day warranty
 - c. Be fit for the purpose they are intended for
 - d. Be covered by a 90-day warranty
4. True or false: The *Sale of Goods Act* doesn’t apply to vehicles sold as-is.
5. Give three examples of conditions customers may want to include in the contract.
6. What rights do customers have if they give a dealer a deposit or trade-in vehicle, but don’t sign a written contract?
7. When a customer buys a vehicle from a registered dealer, they have a cooling-off period of:
 - a. 24 hours
 - b. 48 hours
 - c. 10 days
 - d. There is no cooling-off period
8. True or false: If a customer signs a contract but doesn’t complete the sale, the dealer can keep the whole deposit, no matter how much it is.
9. List two costs a dealer can take out of the deposit if a customer backs out of a deal.



CHAPTER 17

Code of Ethics Regulations

- 17.01** Learning objectives
- 17.02** Introduction
- 17.03** Discussion of the Code of Ethics
- 17.04** Code of Ethics requirements
- 17.05** Disciplinary action
- 17.06** Summary
- 17.07** Definitions
- 17.08** Test yourself

17.01 Learning objectives

After completing this chapter, you will understand:

- Dealers' and salespeople's responsibilities under the Code of Ethics Regulations
- What "clear and truthful" means
- What "legal, decent, ethical and truthful" means
- Seven requirements of the Code of Ethics
- Disciplinary process for dealers or salespeople who don't follow the Code of Ethics
- Role of the Discipline Panel and Appeals Panel

Code of Ethics Regulations

17.02 Introduction

In some industries, a code of ethics is a promise to follow certain standards of behaviour, but it isn't a legal requirement. However, the Code of Ethics Regulations of the MVDA are part of the law and dealers and salespeople have to follow them.

The MVDA requires that dealers and salespeople do business with financial responsibility, honesty, integrity and fairness. It also requires dealers to make sure their employees and salespeople follow the MVDA and Regulations, including the Code of Ethics Regulations, when they do their jobs.

17.03 Discussion of the Code of Ethics Regulations

The Code of Ethics Regulations say that dealers and salespeople must make clear and truthful disclosures when they give information about:

- The features, benefits and prices of a vehicle
- The products, services, programs and prices that are available when a customer buys a vehicle

The Code of Ethics also says that all advertising (and other representations) by dealers or salespeople must be legal, decent, ethical and truthful. This means that dealers and salespeople must be sure that what they say is legal, decent (respectable or honest) and ethical (morally right). They can't say things that are untrue, misleading or illegal.

17.04 Code of Ethics requirements

The Code of Ethics Regulations includes the following seven requirements for dealers and salespeople.

Integrity

- Dealers and salespeople must be financially responsible.

- Dealers and salespeople must never say that OMVIC has set or approved any payment or commission.

Disclosure and marketing

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

Disclosure for wholesale contracts

- There are 22 things a dealer must disclose when they sell or lease to another registered dealer. (See Chapter 7).

Accountability

- A dealer must make sure their salespeople follow the Code of Ethics.
- A salesperson must not do anything (or fail to do something) that causes the dealer to break the Code of Ethics or the law.

Compliance

- Dealers and salespeople must make sure all dealer documents are current and follow the law.
- A dealer must help a buyer or lessee apply for a new vehicle permit within six days of buying or leasing a vehicle, unless the customer tells the dealer not to.

Respect

- Dealers and salespeople must not do anything insulting to human dignity or integrity, nor use offensive symbols.
- Dealers and salespeople must do business ethically and with respect for everyone they do business with.

Professionalism

- Dealers and salespeople must not do anything disgraceful, dishonourable, unprofessional or unbecoming.
- Dealers and salespeople must act with honesty, integrity and fairness.
- Dealers and salespeople must use their best efforts to prevent mistakes, misrepresentation, fraud or any unethical practice.
- Dealers and salespeople must show reasonable knowledge, judgement and capability, and do business in an ethical way.
- If a customer trades in a vehicle and the dealer agrees to pay out a loan on the vehicle (or a bill owing for repairs or storage), then the dealer must do so.

17.05 Disciplinary action

OMVIC can begin disciplinary action when it receives a complaint, or as a result of issues found during an inspection or investigation. The MVDA gives OMVIC the following ways to deal with complaints:

- Try to resolve the complaint
- Give the dealer or salesperson a written warning
- Have the dealer or salesperson take more educational courses
- Refuse, revoke or suspend the dealer or salesperson's registration, or put conditions on their registration
- If there is a violation of the Code of Ethics, then the Discipline and Appeals Committee may hold a hearing

Disciplinary action

If a dealer or salesperson is accused of doing something that's against the Code of Ethics, OMVIC can give them a Notice of Complaint. If the dealer or salesperson agrees that they didn't follow the Code of Ethics, they can work out a settlement with OMVIC. If they don't agree, they can give an explanation or defend themselves. In this case, the Discipline Committee will hold a hearing and decide what should happen.

Disciplinary hearing

The Discipline Committee will arrange for a Discipline Panel of three people to hold a hearing. If the hearing is for a dealer, at least one of the panelists must be a dealer. If the hearing is for a salesperson, one panelist must be a salesperson. One of the panelists must be neither a dealer nor a salesperson.

FAST FACTS

- If a dealer or salesperson doesn't follow the Code of Ethics, OMVIC can revoke their registration.
- The word "ethics" means principles of right and wrong that guide a person's behaviour.
- A dealer is responsible for making sure their salespeople follow the Code of Ethics.
- OMVIC can have the Discipline Committee hold a hearing to look into a complaint against a dealer or salesperson.

Code of Ethics Regulations

OMVIC staff will give evidence (proof of facts) about the allegation of non-compliance to the Discipline Panel. The dealer or salesperson, who usually also has a lawyer, will give their explanation and defence.

Decision of the Discipline Panel

If the Discipline Panel finds that the dealer or salesperson broke the Code of Ethics, they can order the dealer or salesperson to:

- Take more educational courses
- Pay for educational courses for their sales staff
- Pay a fine up to a maximum of \$25,000
- Pay the costs of the hearing

Appealing the decision

If the dealer or salesperson disagrees with the results of the hearing, they can appeal the decision to the Appeals Committee. The Appeals Committee will arrange another hearing in front of three panelists who are industry and non-industry members.

The Appeals Panel can affirm (agree with), overturn (reject or set aside) or change the order that the Discipline Panel made. The Appeals Panel decision is final and can't be appealed again.

Time limits

The Code of Ethics Regulations say that OMVIC must begin the discipline process within two years of the day they first heard of the complaint.

Making decisions public

When the Discipline Committee or Appeals Committee finds that a dealer or salesperson broke the Code of Ethics, OMVIC has to make the information public.

17.06 Summary

The Code of Ethics Regulations are part of the MVDA, so they are law. The Code of Ethics requires dealers and salespeople to follow the law and do business with integrity and honesty.

The Code of Ethics lists the disclosures dealers must make in wholesale transactions (see Chapter 7). When dealers disclose all information to each other, it makes it easier for them to disclose the required information to customers.

There are serious consequences for not following the Code of Ethics. Dealers and salespeople can have their registration revoked or face a disciplinary hearing.

17.07 Definitions

hearing: a formal legal process where a judge or decision-making panel listens to evidence (facts, proof) of an offence from both sides and decides whether to take disciplinary action.



There are serious consequences for not following the Code of Ethics.

 NOTES

FAST FACTS

- The Discipline Committee can order a dealer or salesperson to take educational courses or pay a fine, among other things.

 NOTES

CHAPTER 17

17.08 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. True or false: The Code of Ethics Regulations are guidelines and don't have any legal authority.
2. Dealers and salespeople must do business by following the law and acting with: (Choose all that apply.)
 - a. Integrity
 - b. Fairness
 - c. Honesty
 - d. Passion
3. The consequences a dealer or salesperson can face if they don't follow the Code of Ethics include:
 - a. Having their registration revoked
 - b. Having their registration or renewal refused
 - c. Facing a disciplinary hearing
 - d. All of the above
4. True or false: If the Discipline Panel decides that a dealer or salesperson broke the Code of Ethics, they can order the dealer or salesperson to pay a fine of up to \$10,000.
5. What penalties (other than a fine) can the Discipline Committee order?
6. True or false: A dealer or salesperson can't appeal an order from the Discipline Committee.
7. Which **two** of these statements are correct?
 - a. A salesperson must not do anything that makes a dealer break the Code of Ethics.
 - b. A salesperson must make sure a dealer doesn't break the Code of Ethics.
 - c. A dealer must make sure their salespeople follow the Code of Ethics.
 - d. It's good to follow the Code of Ethics but it's not required by law.



CHAPTER 18

A variety of topics

- 18.01** Learning objectives
- 18.02** Introduction
- 18.03** Canadian Motor Vehicle Arbitration Plan
- 18.04** Consignment sales
- 18.05** Consignment best practices
- 18.06** Dealer plates and service plates
- 18.07** Wholesale auctions
- 18.08** Branding vehicles
- 18.09** Safety Standards Certificate
- 18.10** Used Vehicle Information Package
- 18.11** Summary
- 18.12** Test yourself



18.01 Learning objectives

After completing this chapter, you will understand:

- The Canadian Motor Vehicle Arbitration Plan (CAMVAP)
- Disputes eligible for CAMVAP
- What a consignment sale is
- Dealer's obligations for consignment contracts
- When dealer plates can be used
- When service plates can be used
- Who can attend a wholesale auction
- Information required from a dealer at a wholesale auction
- What the brands irreparable, salvage and rebuilt mean
- Purpose of a Safety Standards Certificate
- Purpose of a Used Vehicle Information Package

18.02 Introduction

The MVDA, *Consumer Protection Act* (CPA) and *Sale of Goods Act* are three laws that apply to the retail automotive industry.

This final chapter looks at a few topics from the MVDA and other laws that haven't been covered in earlier chapters.

18.03 Canadian Motor Vehicle Arbitration Plan

The Canadian Motor Vehicle Arbitration Plan (CAMVAP) is a program that solves disputes between consumers and vehicle manufacturers. The disputes may be about possible manufacturing defects (flaws) or the manufacturer's new vehicle warranty.

The process uses an arbitrator (a neutral party that isn't associated with either the consumer or the manufacturer) to solve the dispute. CAMVAP's process is intended to be "fair, fast, friendly, free and final." After the arbitrator makes a decision, neither party can appeal it. The consumer doesn't have to keep the outcome of the CAMVAP process private or confidential.

Some states in the United States have a "lemon law" that helps buyers of new or recent vehicles that seem to be poorly made (these cars are called "lemons"). Ontario doesn't have a lemon law. CAMVAP is used to resolve disputes in Canada.

CAMVAP disclosure on contracts

Not all manufacturers participate in CAMVAP. For example, three manufacturers that don't participate are Mitsubishi, BMW (including the Mini and Rolls-Royce brands) and Fiat Chrysler Automobiles (including brands like Dodge, Jeep and Ram). The MVDA requires that all sale and lease contracts for both new and used vehicles must include the following statement about CAMVAP on the contract.

CAMVAP – the following statement in large, bold print

CANADIAN MOTOR VEHICLE ARBITRATION PLAN

The Canadian Motor Vehicle Arbitration Plan (CAMVAP) allows consumers to resolve disputes with participating manufacturers about possible defects in a vehicle's assembly or materials, or how the manufacturer is applying or administering its new vehicle warranty. Please contact CAMVAP for more information about the program and to see if your vehicle qualifies.

Disputes eligible for CAMVAP

CAMVAP covers most domestic (Canadian-made) and imported passenger cars, light trucks, sport utility vehicles (SUVs), vans and multi-purpose passenger vehicles bought or leased in Canada.

To be eligible for CAMVAP, vehicles must weigh less than 4,536 kg (10,000 lbs) gross vehicle weight, be either the current model year or one of the last four model years and have travelled less than 160,000 km at the time of the arbitration hearing.

Eligible disputes include the way a vehicle's new vehicle warranty is administered or applied, and defects in the way a vehicle was built or the materials used to build it.

The following types of disputes are not eligible:

- Personal injury or third-party property damage
- Claims of consequential or inconsequential damages, loss of profits or inconvenience
- A claim that's been taken to court (or is part of a class action lawsuit)
- A vehicle that is used for business or commercial purposes

Results of arbitration

A CAMVAP arbitrator can find:

- They have no authority to solve the dispute
- The manufacturer is not liable (legally responsible) for the claim
- The manufacturer is liable for the claim

If the arbitrator finds the manufacturer liable, they can order the manufacturer to:

- Repair the vehicle at the manufacturer's expense
- Buy the vehicle back. The price is set by a formula (and may be reduced for the amount the vehicle has been used)
- Pay the customer back for repairs
- Pay the customer back for some expenses up to \$500
- Pay back up to \$100 for costs of calling witnesses

A CAMVAP arbitrator can't order:

- Exemplary, punitive or other damages (except as allowed by CAMVAP)
- Cancelling the agreement to buy or lease the vehicle
- The manufacturer to pay back the cost of buying or leasing the vehicle
- The manufacturer to buy back the vehicle if the consumer exceeds the buy-back eligibility requirements, even if the vehicle can't be repaired
- Extended service contracts or extensions on the warranty

This is a brief overview of CAMVAP. Visit www.camvap.ca for complete information.

18.04 Consignment sales

Sometimes dealers take vehicles on consignment. This means the owner of the vehicle (consignor) gives the vehicle to the dealer (consignee) to sell on the owner's behalf. Consignment sales can be arranged between a dealer and a consumer or between two dealers.

After the dealer sells the vehicle, they transfer the vehicle registration from the consignor to the consignee (dealer), and then into the buyer's name. Then the consignment contract has been completed. The dealer gives the sale price to the consignor and keeps a fee.

FAST FACTS

- Both the consumer and the manufacturer have to follow the CAMVAP arbitrator's decision. They can't appeal it.
- If the CAMVAP arbitrator finds the manufacturer legally responsible for the problem, they can order the manufacturer to pay the consumer for certain things.

A variety of topics

If the consignor originally bought the vehicle for personal or family use, then the dealer must deposit the money they get for the consignment into their trust account.

Consignment contracts

All consignment contracts must be in writing and signed by both the consignor and consignee. This is a good business practice and protects both the dealer and vehicle owner by preventing any misunderstandings.

All consignment contracts must clearly say, in a noticeable way, that the vehicle is being sold on consignment. The dealer must do his best to get the consignor a copy of the contract right after signing it. If a salesperson is involved in the consignment, they must also sign the contract.

The consignor must get a copy of the contract immediately after they sign it.

The dealer must do their best to get a copy of the Used Vehicle Information Package from the consignor.

The MVDA also has special rules if the dealer sells the vehicle at an auction.

See Chapter 4.07 for detailed information on what must be included in a consignment contract.

18.05 Consignment best practices

OMVIC recommends the following best practices for consignment sales to educate dealers and help them follow the Code of Ethics. These best practices are not a legal opinion. Dealers should look at the related sections of the MVDA and its regulations or to check with a lawyer if they have questions.

Liens

Under the *Sale of Goods Act*, dealers must make sure the vehicles they sell don't have any liens against them. So, before taking any vehicle on consignment, dealers should:

- Run a lien check on the vehicle. Since dealers are required to do their best to get a Used Vehicle Information Package (UVIP) for the vehicle being consigned, the UVIP will show any liens and brands (see 18.08, below). However, it will not show accident history. OMVIC recommends dealers get a full vehicle history report
- Have the consignor confirm in writing whether the vehicle has a lien against it
- Check that the consignor is the owner of the vehicle by checking their driver's licence and vehicle registration
- Make sure any liens are paid out before the sale is completed. Dealers should take the lien amount out of the money for the vehicle sale and pay this to the lien holder right after selling the vehicle

Disclosure on consignment sales

Dealers have to meet the same disclosure requirements for consignment sales as they do for regular vehicle sales. To do so, dealers should do their own due diligence to make sure they can make the proper disclosures to the buyer. This may include:

- Getting written disclosures from the consignor, similar to a consumer trading in a vehicle
- Doing a vehicle history search as well as getting a UVIP
- Thoroughly checking over the vehicle and/or having it inspected by a mechanic
- Giving all the important information to the buyer before they agree to buy the vehicle

Vehicle registration

The dealer can get the ownership paper from the consignor when they sign the consignment agreement, but they can't transfer the registration out of the consignor's name until they have sold the vehicle.

While offering a vehicle on consignment

The MVDA says a dealer must clearly mark any vehicles on their lot being sold on consignment. They might have a separate area for consignment vehicles or put a sign in the vehicle's window.

OMVIC recommends dealers get the consignor's written permission to:

- Sell the vehicle for less than the minimum selling price
- Use the consigned vehicle for any purpose other than selling it
- Take the consigned vehicle off their premises for more than 24 hours
- Change, repair, service or recondition the vehicle in any way other than what is written in the consignment contract. This applies whether or not the dealer plans to charge the consignor for the work. This doesn't apply to any work that the buyer asks the dealer to do, and that the consignor won't be responsible for.

After selling a consigned vehicle

After selling a consigned vehicle, the MVDA requires the dealer to deposit the money they get into their trust account. See Chapter 3.06 for more on trust accounts.

A dealer should tell the consignor the vehicle is sold within two days. They should pay the consignor out of the trust account right away, and no longer than 30 days after the sale, even if the buyer hasn't paid the full amount. The MVDA also requires the dealer to give a copy of the sales contract to both the buyer and consignor as soon as possible.

Trade-ins

The consignor gets the money from the vehicle sale, less anything shown on the consignment contract (such as the dealer's fee or any lien payout). So, if the dealer accepts a trade-in vehicle from the buyer, they should treat the trade-in vehicle or the money from selling it as trust assets. This makes sure the dealer can pay the consignor in full.

Consignment records

Dealers must maintain consignment records by following the rules in the MVDA. The *Highway Traffic Act* requires that dealers enter consignment sales in their garage register (see Chapter 3.04). OMVIC also recommends that dealers keep a separate file for each consignment that has all the documents related to that sale. This may include a lien search, UVIP, vehicle history search, repair or service records, consignment contract, condition reports, insurance information, warranties, copy of vehicle registration and consignor's driver's licence, purchase contract and payment information.

FAST FACTS

- Consignment contracts must be in writing and the MVDA requires certain information to be included in the contract.
- OMVIC recommends several good practices for dealers to follow when they take consignment vehicles.
- Even though the dealer is putting the consignor's vehicle on their lot, they can't transfer ownership until the vehicle is sold.

A variety of topics

OMVIC disclosure

OMVIC recommends using the following disclosure statement on a consignment contract. It is not a legal requirement.

ATTENTION

In case of any concerns with this consignment agreement, you should first contact the dealer/consignee. If concerns persist, you may contact the Ontario Motor Vehicle Industry Council as the administrative authority responsible 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 consignment and the dealer/consignee is unable or unwilling to make good on the loss. You may have additional rights at law. Please contact OMVIC at 1-800-943-6002 or at consumers@omvic.on.ca.

18.06 Dealer plates and service plates

Dealer plates

Registered dealers can use dealer plates/permits. This is a single, portable licence plate with the word "DEALER" on the left side and red letters and numbers on a white background. Only dealers can use the plates, and only on vehicles they own that are part of their inventory for sale. They can't be loaned to others. Dealers can use vehicles with dealer plates for private use (non-business use).

Service plates

Service providers can use service plates/permits. This includes anyone who repairs, customizes, manufactures or transports vehicles or trailers. They can use service plates:

- On a trailer or vehicle (other than a motorcycle or motor-assisted bicycle) for purposes related to repairing, road testing or customizing the vehicle. The person the service plate is registered to must be the person using the vehicle
- To transport or tow a vehicle by a person who's in the business of transporting vehicles

- For purposes related to manufacturing or selling a trailer
- To tow a vehicle somewhere where its load will be removed, or to an impound lot

Vehicles with service plates can't be used for private (non-business) purposes.

The Ministry of Transportation issues dealer and service plates, not OMVIC. Visit the Ministry of Transportation website for more information.

18.07 Wholesale auctions

Only registered dealers and dealers registered outside Ontario can buy vehicles at wholesale auctions.

If an auction takes place where bidders are physically present, then only certain people are allowed in the bidding area. This includes registered dealers, OMVIC staff, members of law enforcement, directors or officers of the auction (or people in their company) and employees or representatives of the sellers. Everyone in the bidding area must wear visible photo identification. Only registered dealers or Outside Ontario Dealers (out-of-province dealers who have registered with OMVIC) can bid. Others in the bidding area can't be there to buy a vehicle.

A dealer needs an auction card to get into the bidding area of the auction. To get an auction card, a dealer may need to give the wholesale auction documents and information such as:

- Dealer HST registration
- Dealer vendor permit (HST)
- Trade and credit references
- Proof of insurance
- Copy of other auction cards

Online auctions

Online auctions must have security to make sure only registered dealers or Outside Ontario Dealers can access them. Dealers can't let a customer peek

over their shoulder to take part in the auction secretly. It's an offence for a dealer to help someone get into an auction, whether it's online or in person.

Wholesale auctions are exempt from registration under the MVDA

People or businesses that run vehicle auctions (wholesale auctions) don't have to register as motor vehicle dealers under the MVDA if:

- They don't have any property interest in the vehicles they are auctioning
- A dealer (or someone exempt from registration under the MVDA) owns the vehicles being auctioned
- Only registered dealers are buying the vehicles
- They do their best to make sure the disclosures required by the MVDA and Code of Ethics have been made
- Access to the auction is limited to registered dealers

18.08 Branding vehicles

When a vehicle is so damaged that it would cost more to repair than its insurance value, the insurance company may declare it a total loss or write-off. Many of these write-offs find their way back onto Ontario roads illegally or are sold to unsuspecting customers. These vehicles may be badly damaged or unsafe to drive. Ontario's vehicle branding program makes it harder for stolen and damaged vehicles to make their way onto our roads.

The branding program requires insurers and others (including self-insurers, auctioneers, importers, salvagers and individuals) to label or brand vehicles that are severely damaged or declared a total loss. They must also report these brands to the Ministry of Transportation to include in the Vehicle Registration System. Other than the label "stolen" (which is not a brand; see more below), brands are printed on registration permits, vehicle histories and UVIPs. These documents can be purchased from ServiceOntario.

There are four different brands:

Irreparable (can't be repaired)

- Vehicle has been written off as a total loss
- Can be used only for parts or scrap
- Can't be driven again in Ontario

Salvage

- Vehicle has been written off as a total loss
- Can be repaired or used as scrap



FAST FACTS

- A dealer can drive a vehicle with dealer plates for personal reasons. Someone with service plates can only drive the vehicle for business purposes.
- Both in-person and online auctions are carefully controlled to make sure only registered dealers and Outside Ontario Dealers can bid on vehicles.
- A vehicle is branded in one of four categories when it is badly damaged. The brand appears on certain official documents so the information is public.

A variety of topics

- If repaired, the vehicle must pass a structural inspection test and be inspected by an authorized technician (see “rebuilt”)

Rebuilt

- Vehicle was written off, branded as salvage and then repaired
- Vehicle must have a Structural Inspection Certificate from an authorized technician at a licensed Motor Vehicle Inspection Station (MVIS).

None

- Vehicle hasn’t been given one of the other brands in Ontario
- Vehicle may have been given a damage-related brand outside Ontario
- Vehicle may have been damaged or rebuilt before March 31, 2003
- Degree of damage doesn’t meet branding criteria
- Vehicle may have never been in a collision

Stolen vehicles

“Stolen” isn’t a vehicle brand. It’s a vehicle status that is given by the Ministry of Transportation when the police have declared the vehicle stolen. No vehicle transactions can be completed as long as this status is on the vehicle. The Ministry of Transportation can only remove the status “stolen” when the police have told them they got the vehicle back.

Vehicles from outside Ontario

Vehicle brands from other locations in Canada and the U.S. will be kept on vehicles that are registered in Ontario, with some exceptions.

Rebuilt: Vehicles from outside Ontario branded as “rebuilt” (or the equivalent in the area they came from) will be registered as “salvage” in Ontario. This means the vehicle has to have a structural inspection to be sure it was repaired properly before it can be branded “rebuilt.”

Fire or flood damaged: All vehicles that have been branded outside Ontario because of fire or flood

damage are branded as “irreparable” in Ontario. This applies even if the vehicle was branded “salvage” or something else outside Ontario.

Motorcycles: Imported motorcycles that were branded “salvage” or “rebuilt” (or similar brands) outside Ontario will be branded “irreparable” when they are registered in Ontario. There are no exceptions to this rule.

18.09 Safety Standards Certificate

A vehicle has to pass a safety inspection before it can get licence plates and be driven. This inspection is done by a government-approved Motor Vehicle Inspection Station (MVIS). It checks that certain things on the vehicle meet minimum safety requirements, according to the Ministry of Transportation. If the vehicle passes inspection, the MVIS gives it a Safety Standards Certificate (SSC).

An SSC is required when:

- Transferring a used vehicle to a new owner as fit
- Registering a vehicle in Ontario that was previously registered in another province or country
- Changing the status of the vehicle from unfit to fit
- Registering a rebuilt vehicle

For transferring ownership, an SSC is good for 36 days from the date it was issued. A vehicle can be sold without an SSC, but licence plates can’t be attached to the vehicle without one.

An SSC isn’t a warranty or guarantee of the general condition of the vehicle. To make this clear to customers, the MVDA requires all contracts for the sale or lease of a used vehicle include this statement on the contract:

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

18.10 Used Vehicle Information Package

The Used Vehicle Information Package (UVIP) includes the following information:

- Vehicle registration history in Ontario, including all present and previous owners in Ontario and the municipality where they live
- Odometer information
- Vehicle lien information (if there are liens registered in Ontario)
- Fair market value for the vehicle (“Red Book”) that will be used to calculate the minimum tax payable
- Other information, such as consumer tips, vehicle safety standards inspection, retail sales tax information and forms for bills of sale

UVIPs don’t include ownership history or odometer readings for any time the vehicle was registered outside Ontario.

A private seller of a vehicle must give the buyer a UVIP when they sell the vehicle. The buyer must then give the UVIP to ServiceOntario when they transfer the vehicle registration. There are certain situations and types of vehicles where a UVIP isn’t required (for example, transfers between immediate family members, such as a spouse or a child). A dealer doesn’t have to give a buyer a UVIP.

FAST FACTS

- Ontario doesn’t automatically accept all vehicle brands from out of province.
- Dealers don’t have to give buyers a Used Vehicle Information Package, but private sellers do.



18.11 Summary

CAMVAP: The CAMVAP program offers consumers and manufacturers a way to settle disputes about vehicle defects or warranties. Disputes are settled by an arbitrator and their decisions are final. Not all manufacturers participate in the program.

Consignment sales: Dealers must deposit the money from a consignment sale into their trust account if the consignor is a person who bought the vehicle for family or personal use. The MVDA says that consignment contracts must be in writing, and they must include some specific information. This includes the dealer's fee, an estimated selling price and a minimum selling price.

Dealer plates: Dealers can get dealer plates from the Ministry of Transportation. They can use dealer plates on any vehicle in their inventory of vehicles for sale.

Wholesale auctions: Only registered dealers and Outside Ontario Dealers can participate in wholesale vehicle auctions. All participants must wear visible photo ID when they're in the bidding area. Online actions must be kept secure so only authorized dealers participate.

Branding vehicles: There are four brands that can be given to a vehicle in Ontario: irreparable, salvage, rebuilt and none. Vehicles branded irreparable can never be licensed for use on the road in Ontario. Salvage vehicles must be repaired and have a special inspection before they can be licensed. If they pass this inspection, they can be rebranded "rebuilt" and can go back on the road.

Safety Standards Certificate (SSC): Ministry of Transportation-approved Motor Vehicle Inspection Stations (MVISs) issue SSCs. The certificates are good for 36 days from the date they're issued. An SSC is required to transfer a used vehicle to a new owner as "fit." An SSC only means the vehicle met specific minimum safety standards on the day it was issued.

Used Vehicle Information Package (UVIP): UVIPs show vehicle registration history and lien and odometer information. Most private vehicle sales require a UVIP, but dealers don't have to give them to buyers.

 NOTES

CHAPTER 18

18.12 Test yourself

Check the answers in Appendix 1. If you get a question wrong, review that section in the chapter.

1. What is the Canadian Motor Vehicle Arbitration Plan (CAMVAP)?
2. Briefly explain what a consignment sale is.
3. True or false: In a consignment sale, the dealer can negotiate how much they'll charge the consignor after they sell the vehicle. The fee doesn't have to be in the consignment contract.
4. True or false: All vehicle manufacturers participate in CAMVAP.
5. List three things that make a vehicle eligible for CAMVAP.
6. True or false: A four-year-old vehicle with 151,000 km could qualify for CAMVAP.
7. True or false: Consumers can't appeal the decision of the CAMVAP arbitrator.
8. True or false: A dealer only has to deposit the money from a consignment sale into their trust account if the amount is over \$10,000.
9. List five pieces of information that must be included in a consignment contract.
10. Who issues dealer plates?
 - a. Ministry of Public and Business Service Delivery
 - b. OMVIC
 - c. Ministry of Transportation
 - d. MVRO
11. True or false: Dealers can bring a customer to a wholesale auction as long as the dealer is the one placing the bids.
12. True or false: Dealers must wear visible photo ID at wholesale auctions.
13. List the four brands that are used in Ontario's branding program.
14. True or false: If a vehicle is branded irreparable, it can only be rebranded as rebuilt once it gets a Structural Repair Certificate from a licensed repair shop.

15. When is a Safety Standards Certificate required?

- Transferring a used vehicle to a new owner as fit
- Registering a vehicle in Ontario that was previously registered outside Ontario
- Changing the status of a vehicle from unfit to fit
- Registering a rebuilt vehicle
- All of the above

16. How long is an SSC good for?

17. When are Used Vehicle Information Packages (UVIPs) required?

- Private sales
- Dealer sales
- Consignment sales
- All sales



Test yourself - Answers

The answers include references to the section of the chapter where the answer is discussed.

Chapter 1

1. The *Motor Vehicle Dealers Act* (MVDA) **(1.02)**
2. c. OMVIC **(1.03)**
3. Any three of the following: **(1.03)**
 - Administers and enforces the MVDA
 - Registers dealers and salespeople
 - Regularly inspects dealers
 - Receives and investigates complaints from consumers
 - Disciplines and prosecutes dealers and salespeople
 - Administers the Motor Vehicle Dealers Compensation Fund
 - Works to improve professionalism in the automotive industry
4. Under the Transaction Fee Program, dealers must give OMVIC a transaction fee for each vehicle they sell or lease (including fleet and as-is transactions). Dealers give the fees to OMVIC once a year when they renew their registration. **(1.04)**
5. True **(1.04)**
6. True **(1.04)**
7. d. All of the above **(1.08)**
8. OMVIC can issue an advertising order that may require the dealer to both stop the advertisement immediately and retract the information or publish a correction. **(1.05)**
9. Up to two years **(1.05)**
10. Any two of the following: **(1.06)**
 - The dealership is about to go out of business
 - OMVIC is proposing revoking the dealer's registration
 - OMVIC is about to make a freeze order

APPENDIX 1

Chapter 2

1. 18 **(2.03)**
2. Three requirements are: **(2.05)**
 - Pay the required fee
 - Have completed the Automotive Certification Course
 - Be employed as a salesperson by a registered dealer
3. True **(2.02)**
4. a, b, c, d **(2.05 Who else has to be registered as a salesperson)**
5. Any two of: **(2.03, 2.08)**
 - Past actions
 - False information on application
 - Hasn't met terms of registration
 - Can't be expected to be financially responsible
 - Owes money to the Compensation Fund
6. One of the following: **(2.11)**
 - It's been two years since the registration was refused or revoked
 - New information shows the circumstances have changed
7. Licence Appeal Tribunal (LAT) **(2.10)**
8. Any four classes listed in **2.14**
9. Any two exemptions listed in **2.12**
10. One of the following: **(2.15)**
 - Change of dealer address
 - Changes of officers or directors (for corporations or partnerships)
 - Hiring a salesperson, including their start date
 - Salesperson leaving the dealership, including date and reason
 - Any event that destroys dealer records or makes them unavailable

11. c. Sales manager **(2.06)**
12. An "interested person:" **(2.09)**
 - Benefits from or may benefit from the business
 - Has or may have control (directly or indirectly) over the dealer or salesperson
 - Has given or may have given financing (directly or indirectly) to the business
13. Where the public can see it in each of their registered business locations **(2.07)**
14. True **(2.07)**
15. Compare your answers to **2.14**

Chapter 3

1. False **(3.03)**
2. Any two of: **(3.03)**
 - Premises must be separate from a dwelling
 - Must have an office and a lot
 - Must have proper permits and insurance
3. True **(3.04 Storing records)**
4. Garage register **(3.04)**
5. Any four points from **3.04 Vehicle records**
6. d. All of the above **(3.04 Business records)**
7. b. OMVIC, in writing within five days **(3.04 Storing records)**
8. Apply to OMVIC for permission **(3.04 Storing records)**
9. b. Location is accessible to OMVIC staff during normal business hours **(3.04 Storing records)**
10. False **(3.06)**
11. c. \$10,000 **(3.06)**
12. False **(3.07)**

Chapter 4

1. Sales final statement **(4.03, 4.04 Informational statements)**
2. Any four from **4.03**
3. Maximum distance that will be shown on the odometer when it is delivered OR a statement initialled by the buyer saying there is no maximum **(4.03)**
4. Any four from **4.04**
5. b. The vehicle met certain basic standards of safety on the day it was inspected **(4.04 Safety standards)**
6. The **VEHICLE SOLD “AS-IS”** statement, as outlined in **4.04**.
7. d. Must include a specific definition of “as-is” in the contract **(4.04 As-is statement)**
8. False **(4.04 As-is statement)**
9. Any three from **4.07**
10. The agencies/organizations are: **(4.03, 4.04, 4.05 Informational statements)**
 - OMVIC
 - Motor Vehicle Dealers Compensation Fund
 - Canadian Motor Vehicle Arbitration Plan (CAMVAP)
11. If there is no signed contract, the customer can cancel the contract at any time and demand their trade-in or deposit back **(4.11)**

FAST FACTS

- A used vehicle can be sold with a Safety Standards Certificate or in “as-is” condition, but not both.

Chapter 5

1. Any three of: **(5.04 Previous use)**
 - Police vehicle
 - Emergency services vehicle
 - Taxi
 - Limousine
 - Leased (rented) on a daily basis and hasn’t been owned by someone other than a dealer since then
2. Any three of: **(5.04 History)**
 - Damage from collision was over \$3,000
 - Fire damage
 - Damaged by immersion in liquid (flood)
 - Structural damage or repairs, replacements or alterations to vehicle structure
3. True **(5.04 Previous use)**
4. False **(5.04 History)**
5. b. Replacement of two or more adjacent body panels (not including bumper panels) **(5.04 History)**
6. b. \$3,000 **(5.04 History)**
7. False **(5.04 History)**
8. False **(5.04 Quality or condition)**
9. e. All of the above **(5.04 Quality or condition)**
10. b. Clear, comprehensible and prominent **(5.03)**
11. Any two of: **(5.05)**
 - a. Learn about strengths and weaknesses of different vehicle history reports
 - b. Use a vehicle history report that has complete information
 - c. Carefully inspect the vehicle

APPENDIX 1

Chapter 6

1. False **(6.03)**
2. a, c, e **(6.03)**
3. Rescission rights are triggered if the following isn't disclosed: **(6.03)**
 - Previous use as a police or emergency services vehicle
 - Previous use as a daily rental (unless the vehicle has since been owned by someone other than a dealer)
 - Actual distance the vehicle has travelled or the appropriate disclosure statement if the dealer doesn't know the distance
4. False **(6.04 Other important details)**
5. b. 90 days **(6.04)**
6. True **(6.04)**
7. The margin of error is 5% or 1,000 kilometres of the correct distance, whichever is less. **(6.04)**
8. True **(6.04 Refunding trade-ins)**
9. False **(6.04 Dealer's honest mistake)**

Chapter 7

1. a, b, c **(7.03)**
2. Code of Ethics Regulations **(7.03)**
3. Any two from **7.03**
4. False **(7.03 Additional disclosures)**
5. If the dealer can't confirm the total distance the vehicle has been driven, but can confirm a distance the vehicle had been driven as of some past date, the contract must include a statement of the distance and date, and a statement that "the total distance the vehicle has been driven is believed to be higher"

If the dealer can't confirm the total distance the vehicle has been driven nor a past distance and

date, the contract must include 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" **(7.03)**

6. a. Must disclose specific information to meet the requirements of the Code of Ethics Regulations **(7.03)**

Chapter 8

1. e. All of the above **(8.05)**
2. True **(8.04)**
3. True **(8.04)**
4. c. Order the dealer to take back or correct the ad **(8.02, 8.11)**
5. d. Two years **(8.02, 8.11)**

Chapter 9

1. Warranties can be guaranteed by: **(9.03)**
 - An insurance company that's licensed under the *Insurance Act*
 - An irrevocable letter of credit to the Motor Vehicle Dealers Compensation Fund
2. a. \$100,000 **(9.03)**
3. Any three from **9.03 Selling an extended warranty**
4. d. 30 days **(9.03 Selling on behalf of a warranty company)**
5. False **(9.04)**
6. e. All of the above **(9.04 Selling a service plan)**

Chapter 10

1. d. No notice is required **(10.03)**
2. False **(10.03)**

3. False **(10.03)**
4. False **(10.03)**
5. OMVIC inspectors are similar to auditors. They can look at and evaluate a dealer's premises, records and vehicles. OMVIC investigators are provincial offences officers (similar to police officers). They can look into complaints and accusations against dealers and salespeople and can lay charges, if appropriate. **(10.02)**
6. c. Use the dealer's own computer system to access information **(10.03)**
7. Any two of the following: **(10.05)**
 - OMVIC inspectors
 - Consumer complaints
 - Police
 - Other dealers

Chapter 11

1. Curbsiders are illegal, unlicensed sellers. They're in business to sell vehicles, but often pretend to be private sellers. **(11.02)**
2. Some curbsiders buy vehicles that are insurance write-offs and fix them up. Often, the repairs aren't good and the vehicles aren't road worthy. Then they sell the vehicle to an unsuspecting customer, often without proper disclosure of the vehicle's true history. **(11.02 Selling unsafe vehicles)**
3. d. 25% **(Page 103 Fast facts)**
4. d. All of the above **(11.02 Harming the automotive industry)**
5. Four steps are: **(11.03)**
 - Register the vehicle in the buyer's name
 - If the buyer says they're a dealer, confirm they're registered
 - Have a zero-tolerance policy with employees
 - Look at the garage register for repeat buyers

Chapter 12

1. The Motor Vehicle Dealers Compensation Fund is available to consumers only **(12.02)**
2. Salespeople do not pay into the fund **(12.03)**
3. \$324 **(12.03)**
4. False **(12.04)**
5. Any three from **12.04**
6. False **(12.06)**
7. a. The maximum claim is \$45,000 **(12.02, 12.04)**

Chapter 13

1. A customer is anyone who buys or leases from a dealer or gets services from a dealer. A consumer can be someone acting for personal, family or household purposes. A customer can also be a corporation or a person acting for business purposes. Only a person acting for personal, family or household purposes can be called a consumer. A corporation or someone acting for business purposes is not a consumer. **(13.02 Customers vs consumers)**
2. True **(13.02)**
3. False **(13.02)**
4. False **(13.02)**
5. False **(13.02)**
6. A maximum of two years less a day in jail and/or a fine of up to \$50,000 **(13.05)**
7. False **(13.04 Verbal statements)**
8. True **(13.06)**
9. a, d **(13.03)**
10. Any three from **13.03 False, misleading or deceptive representation** (there may be others as well)

APPENDIX 1

11. Unconscionable representation means seriously unfair practices where the business takes advantage of a consumer **(13.03)**
12. Any three from **13.03 Unconscionable representation** (there may be others as well)
13. A material fact is information that might affect the consumer's decision to buy the vehicle if they knew about it. **(13.03 False, misleading or deceptive representation)**
14. Any four from **13.07**
15. Any four from **13.08**
16. False **(13.04 Honest mistakes)**

Chapter 14

1. b. *Consumer Protection Act* **(14.02)**
2. True **(14.03)**
3. True **(14.03)**
4. Any five from **14.04**
5. a. 90 days or 5,000 km (whichever comes first) **(14.03 Legally required warranty)**
6. b. The dealer must offer the old part to the consumer **(14.03 Replacement parts)**
7. The four pieces of information are: **(14.03 Phone authorization)**
 - Name of the person authorizing
 - Phone number of the person authorizing
 - Date of the phone call
 - Time of the phone call
8. d. All of the above **(14.03 Sign at the dealership)**

Chapter 15

1. Any four from **15.04**
2. Dealers should do a lien check to avoid unexpected problems and be sure they don't sell a vehicle with a lien **(15.05)**
3. Yes **(15.05)**
4. d. Immediately **(15.05)**
5. True **(15.05)**
6. False **(15.05)**

Chapter 16

1. To be of merchantable (sellable) quality, a vehicle must provide transportation. It can't have any hidden defects that would affect the price, and the vehicle must provide reasonable transportation for a reasonable period of time. **(16.02)**
2. False **(16.02)**
3. a, c **(16.02)**
4. False **(16.03)**
5. Examples of conditions a customer may want to include (there may be many others): **(16.04)**
 - Approval of financing
 - Getting insurance
 - Approval of a spouse or parent
 - Repair to be done
 - Work to be done, such as installing a roof rack
6. If a customer gives a dealer a deposit or a trade-in vehicle before they sign a written contract to buy or lease a vehicle, the customer can ask for the deposit or trade-in vehicle back at any time. **(16.05)**
7. d. There is no cooling-off period **(16.06)**
8. False **(16.06)**

9. Examples of costs a dealer can take out of the deposit (there may be many others): **(16.07)**
 - More advertising
 - Storage
 - Another Safety Standards Certificate (SSC)

Chapter 17

1. False **(17.02)**
2. a, b, c **(17.02)**
3. d. All of the above **(17.05)**
4. False **(17.05 Decision of the Discipline Panel)**
5. The Discipline Committee can order: **(17.05 Decision of the Discipline Panel)**
 - Dealer or salesperson must take more educational courses
 - Pay for educational courses for their sales staff
 - Pay the costs of the hearing
6. False **(17.05 Appealing the decision)**
7. a, c **(17.04 Accountability)**

Chapter 18

1. The Canadian Motor Vehicle Arbitration Plan (CAMVAP) is a program that solves disputes between consumers and vehicle manufacturers. The disputes may be about possible manufacturing defects (flaws) or the manufacturer's new vehicle warranty. **(18.03)**
2. In a consignment sale, the owner of the vehicle (consignor) gives the vehicle to the dealer (consignee) to sell on the owner's behalf. **(18.04)**
3. False **(18.11 Consignment sales)**
4. False **(18.03 CAMVAP disclosure on contracts)**

5. Any three of the following: **(18.03 Disputes eligible for CAMVAP)**
 - Vehicle manufacturer participates in CAMVAP
 - Vehicle is a passenger car, light truck, SUV, van or multi-purpose passenger vehicle bought or leased in Canada
 - Vehicle weighs less than 4,536 kg (10,000 lbs) gross vehicle weight
 - Vehicle is from the current model year or one of the last four model years
 - Vehicle has travelled less than 160,000 km at the time of the arbitration hearing
6. True **(18.03 Disputes eligible for CAMVAP)**
7. True **(18.03)**
8. False **(18.04)**
9. Any five from **18.04 Consignment contracts**
10. c. Ministry of Transportation **(18.06)**
11. False **(18.07)**
12. True **(18.07)**
13. The four brands are: **(18.08)**
 - Irreparable
 - Salvage
 - Rebuilt
 - None
14. False **(18.08 Irreparable, Rebuilt)**
15. e. All of the above **(18.09)**
16. 36 days **(18.09)**
17. a. Private sales **(18.10)**



Resource list

Ontario Motor Vehicle Industry Council (OMVIC)

www.omvic.ca

Administers and enforces the *Motor Vehicle Dealers Act* (MVDA). Maintains a fair and informed marketplace by ensuring dealers and salespeople are registered, maintaining a complaint line for consumers and running investigations, disciplinary hearings and prosecutions.

65 Overlea Boulevard, Suite 300

Toronto, ON M4H 1P1

Tel: 416-226-4500

Toll-free: 1-800-943-6002

registration@omvic.on.ca

Canadian Motor Vehicle Arbitration Plan (CAMVAP)

www.camvap.ca

Toll-free: 1-800-207-0685

Industry associations

Canadian Automobile Dealers Association (CADA)

www.cada.ca

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

123 Commerce Valley Drive East, Suite 303

Thornhill, ON L3T 7W8

Tel: 905-940-4959

Toll-free: 1-800-463-5289

Canadian Finance & Leasing Association (CFLA)

www.cfla-acfl.ca

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: 1-877-213-7373

info@cfla-acfl.ca

APPENDIX 2

Motor Vehicle Retailers of Ontario (MVRO) **www.mvro.ca**

Representing franchise car dealers across Ontario.

50 Leek Crescent, Suite 2B
Richmond Hill, ON L4B 4J3
Toll-free: 1-800-668-6510
Fax: 905-940-6232
info@mvro.ca

Used Car Dealers Association of Ontario (UCDA) **www.ucda.org**

A not-for-profit association with a mission 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: 1-800-268-2598
Fax: 416-232-0775
web@ucda.org

Government resources

Canada Revenue Agency (CRA) **www.cra.gc.ca**

Administers the harmonized sales tax (HST).

Ministry of Public and Business Service Delivery **www.ontario.ca/page/ministry-public-business-service-delivery**

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

777 Bay Street, 5th Floor
Toronto, ON M5B 2H7
Tel: 416-212-2665
Toll-free: 1-844-286-8404

Ministry of Finance **www.ontario.ca/page/ministry-finance**

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

Toll-free: 1-866-ONT-TAXS (1-866-668-8297)

Ministry of Transportation (MTO) **www.ontario.ca/page/ministry-transportation**

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

Toll-free: 1-800-268-4686

Information on garage registers: **www.ontario.ca/page/get-renew-or-replace-garage-licence**

Tel: 416-325-8305
Toll-free: 1-800-461-2156

Publications Ontario **www.publications.gov.on.ca**

Sells Ontario government publications, including relevant acts and regulations.

ServiceOntario Publications
134 Bay Street
Toronto, ON M5S 3A9
Tel: 416-326-5300
Toll-free: 1-800-668-9938

Online access to Ontario statutes and regulations: **www.ontario.ca/laws**

ServiceOntario **www.serviceontario.ca**

Register vehicle ownership and apply for government registrations or permits online, including HST number, vendor permit number and business name registration.



Summary of Acts

Competition Act

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

Consumer Protection Act, 2002 (CPA)

This Act protects consumers for most consumer transactions, including vehicle sales. It doesn't apply to wholesale or business-to-business sales. The CPA includes rules about repossession, disclosure of credit terms, false advertising, unfair practices and misrepresentation. It is administered by the Ministry of Public and Business Service Delivery.

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 about emissions. Where a manufacturer has installed an emissions control device on a vehicle, no one may remove the device except to repair 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.

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, 2002 (MVDA)

The MVDA is a public protection statute that requires all motor vehicle dealers and salespeople to be registered and to meet high standards of honesty, integrity and financial responsibility. It 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.

APPENDIX 3

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 gives the individual customer 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 (PIPEDA)

This federal Act protects the individual customer from unauthorized use or disclosure of personal information. Personal information that a dealer collects from a customer while doing business can't later be used for non-business purposes or given to unauthorized parties.

Personal Property Security Act (PPSA)

This Act sets out the process for registering a lien. It also includes the rules for repossession of the vehicle by the lender if the money owed isn't repaid. Dealers must ensure all vehicles sold are free of liens. The *Personal Property Security Act* is administered by the Ministry of Public and Business Service Delivery.

Repair and Storage Liens Act (RSLA)

This Act is administered by the Ministry of Public and Business Service Delivery. The RSLA allows repairers 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 lienholder registered under the RSLA is paid the amount owed before any payment to the PPSA lienholder.

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 that dealers ensure they have the right to sell the vehicle, thus ensuring the buyer enjoys quiet possession.



Glossary

amortization period: the amount of time allowed to pay off a loan.

annual percentage rate (APR): the combination of the interest rate and any other costs or fees associated with financing. APR is given as a percentage. For example, if there's a financing fee of \$599 and annual interest rate of 2.5%, the APR would be 2.9%, which accounts for both the fee and interest.

appeal: a formal process where a higher court or Appeals Committee will have a second look at a decision made by a lower court, tribunal, Registrar or Discipline Committee. The appeals court or committee may keep (uphold) the original decision or reject (overturn) it.

as-is: a vehicle being sold as-is is not represented as being in road-worthy condition, mechanically sound or maintained at any guaranteed level of quality. Dealers who sell a vehicle as-is cannot provide a Safety Standards Certificate (SSC) and the purchase agreement must include the MVDA's definition of as-is. See Chapter 16.03.

bill of sale: a document that transfers ownership of goods from one person or business to another.

branded: a vehicle is called 'branded' when it is classified under the *Highway Traffic Act* as irreparable (can't be repaired), salvage or rebuilt.

capitalized amount: as defined by the CPA, this is the total amount after all additional costs have been added in and any up-front payments have been deducted.

condition of OMVIC registration: something a dealer must do in order to keep their registration. For example, if a dealer's registration is conditional on paying taxes they owe, that means they must pay the taxes or their registration will be cancelled.

consignment: when a dealer (consignee) sells a vehicle on behalf of the owner (consignor) for a fee. Although the consignee has possession of the vehicle, the consignor is still the owner until the sale is complete.

consumer: a customer acting for personal, family or household purposes, not business purposes. A consumer doesn't include a corporation.

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.

APPENDIX 4

cooling-off period: a period of time defined by law during which buyers may change their mind and rescind (cancel) a contract. There is no cooling-off period when someone buys a vehicle from a dealer.

corporation: a legal entity created by or under the authority of the laws of a province or of Canada. The corporation is separate from its shareholders.

cost of borrowing: the total amount it costs the consumer to borrow the money to buy the vehicle, expressed in dollars. It's the amount the consumer pays over and above what a cash customer would pay.

curbsider: an illegal, unlicensed seller who poses as a private seller to sell vehicles. Often the vehicles they sell are misrepresented, accident-damaged, odometer-tampered, stolen or have liens.

demonstrator vehicle: a used vehicle that has never been owned by a consumer but has been registered and is typically of the current or previous model year.

deposit: money paid in advance for buying or leasing a vehicle. The full amount is due later.

disclosure: the legal requirement to reveal all relevant facts.

dwelling: residence; a place where someone lives, such as a house or apartment.

employ (under the MVDA): to appoint, authorize or otherwise arrange to have another person act on one's behalf, including as an independent contractor.

extended warranty (under the MVDA): covers the parts and labour costs of repairing a vehicle in addition to the manufacturer's warranty (or a warranty supplied or implied by the law). See Chapter 9.03.

false or misleading advertising: promotional statements that are untrue or could give people the wrong idea.

garage register: dealers are required by law to keep a record of every car they buy or sell. This is called a garage register.

GST (Goods and Services Tax): a federal government sales tax. Included in the HST.

hearing: a formal legal process where a judge or decision-making panel listens to evidence (facts, proof) of an offence from both sides and decides whether to take disciplinary action.

HST (Harmonized Sales Tax): a combination of PST and GST. Dealers must add HST to the price of all vehicles they sell.

implicit financing charge (IFC): the total amount it costs the consumer to borrow the money to lease the vehicle, expressed in dollars.

implied condition: an essential requirement of a contract that is not written in the contract, but that has to be fulfilled for the deal to go through.

independent contractor: someone working for themselves who contracts to provide specific services to someone else.

interest rate: the amount a lender charges a borrower for the loan. It's a percentage of the amount borrowed (the principal).

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

lien: a claim against a vehicle as security for payment of a debt. Dealers should register a lien whenever a customer owes them money for the purchase, sale or repair of a vehicle.

loan principal: the amount of money borrowed.

material fact: relevant information that could make a reasonable person change their decision if they knew the information. For example, information that might make a buyer decide not to buy a vehicle, or would affect the price they are willing to pay.

misrepresentation: a false statement that convinces someone to agree to a contract or take some other action.

motor vehicle: a car, truck or other vehicle driven under mechanical, not muscular, power. Includes motorcycles but not snow vehicles, tractors or machinery mainly intended for farming or construction.

motor vehicle dealer (under the MVDA): a person who buys and sells motor vehicles, whether on their own or on behalf of someone else, or who says they buy or sell motor vehicles.

officer (under the MVDA): includes the chair and vice-chair of the board of directors, president and vice-president, secretary and assistant secretary, treasurer and assistant treasurer, general manager and assistant general manager of the corporation; partner or general manager and assistant general manager of a partnership; any other person designated as an officer by bylaw or resolution or any other person who performs functions normally performed by a person occupying one of the listed offices.

PST (Provincial Sales Tax): the Ontario government sales tax. Included in the HST.

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

regulations: as part of an act of law (such as the MVDA or *Consumer Protection Act*), the regulations are the rules that the act creates and that are part of the law.

representation (according to the CPA): a spoken or written statement, claim, offer, request or proposal about supplying goods or services to a consumer, or about payment for goods or services supplied to a consumer.

Safety Standards Certificate (SSC): the certificate issued when a used vehicle has been inspected by a licensed facility and meets the minimum safety standards set by the Ministry of Transportation. Most used vehicles must have an SSC in order to transfer ownership and get licence plates.

salesperson (under the MVDA): someone employed by a dealer to buy and sell vehicles on behalf of the dealer.

sole proprietorship: a person carrying on business alone.

trade (under the MVDA): includes buying, selling, leasing, advertising or exchanging an interest in a vehicle or negotiating or inducing or trying to induce the buying, selling, leasing or exchanging of an interest in a vehicle.

unconscionable representation: seriously unfair practices where the business takes advantage of a consumer. See Chapter 13.03.

unfit: a vehicle that is unfit is not driveable and not certified. Licence plates cannot be attached to it until a Safety Standards Certificate (SSC) is issued for the vehicle.

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

warranty: a guarantee, commitment or promise. Often a promise to repair or replace something if it breaks within a specific period of time.





NOTES

