



Study Guide Topics

USING THIS STUDY GUIDE

LESSON PLAN OUTLINE

DEALER LICENSING

- Retail Bond
- Wholesale Bond
- Notice Posting
- Fee Schedule
- DMV notification

BROKER & CONSIGNMENT

- Licensing

PERMANENT BRANCH LOCATIONS

OFFSITE SALES / TEMP BRANCH LOCATIONS

CONDITIONAL SALES CONTRACT

- Refunds
- Contract Breach

MOTOR VEHICLE FINANCING

SALES & USE TAX

DMV FORMS

- Report of Sales

VEHICLE LICENSING & REG.

- Admin Service Fees

DIV 12 COMPLIANCE

ODOMETERS

SMOG / AIR POLLUTION CONTROL

BUREAU OF AUTO REPAIR REGS

VEHICLE HISTORY DISCLOSURES

WARRANTIES

FEDERAL BUYER'S GUIDE

USE OF SPECIAL PLATES

ADVERTISING

STOLEN VEHICLE PREVENTION

UNLAWFUL DEALER ACTIVITIES

DMV ENFORCEMENT ACTIONS

TAX GUIDE


- Record Keeping & Accounting
- Special Circumstance Sales
- Personal Use Circumstances
- Local & District Sales & Use Taxes
- Trade-In Vehicles & Sales Discounting
- Warranties
- Out of State & Foreign Sales
- Dealer Sales



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Continuing Education Edition
Certified For Use By The California - Department Of Motor Vehicles
TriStar Motors, L. L. C. -
www.gotplates.com San Francisco, California 2005

USING THE HOME STUDY PROGRAM

1. Please review the study guide, take the test and mail it back or fax with your \$68.00 check to: 1601 Folsom St. SF CA 94103 (if you have not already paid by credit card or other means).
2. We will correct it – if you get 70% or better we will send you your certificate. If you get less than 70% we will fax or email you another quiz to retake. Once you get 70% or better we send you your certificate.
3.  **Did You Know** icon which is located throughout the Study Guide, provide you with additional information and links about the given topic you are reviewing.
4. On many topics we also provide you with **helpful links** to sites and forms that we feel might be a useful resource for you - feel free to bookmark these sites as you go along.

LESSON PLAN OUTLINE

We will provide you a complete course of instruction.

As a renewal dealer:

- You must take a minimum of four hours to complete the online dealer education curriculum and examination as stated by the DMV
- The examine usually takes about 60 minutes to complete.
- Please check in the FAQ area for explanations on how to operate within current DMV guidelines.
- Upon completion we will provide you with a DMV certificate of completion

We now have three methods to teach you:

- In-Person with discussion and testing
- Home Study with testing and written review
- On Line with discussion, testing and review
- Renewals are mandatory every TWO years.

A 70 % score is needed to pass the dealer examination.

- All materials provided, including study materials and handbook.
- Licensed Sales Persons may attend on behalf of the owner.
- **We will need to a copy of your existing dealer license along with a valid Calif. DL or ID and Salespersons License, if appropriate.**

TriStar Motors, L.L.C.

1601 Folsom Street
San Francisco, California, 94103
Attention: Al, Joe, Kevin & Willis

1-800-901-5950 schedule information & paging
1-888-948-1795 reservation fax machine
jw974@juno.com e - mail



Did you know?

The DMV prefers that, when available, the owner or corporate officer of each dealership attend the dealer continuing education course on behalf of the dealership. If not available, a representative of the dealership, management level, may attend the training on behalf of the dealership, provided they have a current active salesperson license.

DEALER LICENSING

Bond Posting and Information

No person shall act as a dealer without having first been issued:

A Dealer license or a temporary permit.

A dealer must post a bond of \$ 50,000. prior to license being issued.

An unpaid ASF can result in bond activation and loss of license.



Did you know?

The bond is basically a promise, which guarantees payment of dmv fees and penalties, sales and use tax and the order of a judge, known as a "judgment". One may post cash, assign savings or rent the money by paying a premium to a bond company. The amount of rent due is based on the credit of the owners of the dealership. In selecting a bond, California rated carriers are preferred. Typical rates for bonds, with good credit. \$ 200 for a 10K bond And \$ 680. for a 50K bond. Rates for previously bankrupt individuals can run as high as \$ 5000. premium with \$ 5000. collateral. See Dealer Surety Bond Forms (<http://www.dmv.ca.gov/forms/ol/ol25.pdf>)

A lesser bond of \$ 10,000. is allowed for wholesale only if:
fewer than 25 sales annually.

- In lieu of posting a bond a dealer may deposit cash with the DMV or with an approved FDIC bank or savings and loan.
- This deposit shall be held 3 years after license is retired. With no claims outstanding, the deposit is returned.
- It is unlawful to operate w/o having a bond in effect. The office of the principal place of business, and each branch location, must be established prior to license issuance. Photo set of each required.
- Temporary, transitory & mobile offices are acceptable, provided items are not a part of the inventory for sale.
- All records must be kept at the place of business. (4 years)
- The display area of each location, required for retail locations, must comply as follows:
It must be of sufficient size to accommodate each type of vehicle the dealer is licensed to sell and be clearly marked for exclusive use. Display areas must be within 1000 ft. of the office.
- See Dealer Surety Bond Forms (<http://www.dmv.ca.gov/forms/ol/ol25.pdf>)

Permanent signage required for retail locations sufficient to withstand weather. A temporary sign is allowed with a permanent sign on order.

- It shall have an area of at least two (2) square feet per side.
It shall be able to be read from a distance of fifty (50) feet.
- At each location the dealer must post the dealer's license.

At each location the dealer must post the sales license(s)

The sales license fee is \$ 93. with no test, good for three years.

See Related Links:

- Dealer Salesperson Application (<http://www.dmv.ca.gov/forms/ol/ol16.pdf>)
- Livescan Form (<http://www.dmv.ca.gov/forms/ol/dmv8016.pdf>)



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

- [Livescan Locations](http://ag.ca.gov/fingerprints/publications/contact.pdf) (<http://ag.ca.gov/fingerprints/publications/contact.pdf>)
- [exemption form](http://www.dmv.ca.gov/forms/ol/ol257.pdf) (<http://www.dmv.ca.gov/forms/ol/ol257.pdf>)



Did you know?

For wholesale only the bond varies. If the dealer sells 24 cars or less per year a \$ 10,000 bond is sufficient. See [exemption form](http://www.dmv.ca.gov/forms/ol/ol257.pdf) (<http://www.dmv.ca.gov/forms/ol/ol257.pdf>). For a wholesale selling 25 cars or more per year a bond of \$ 50,000 is needed. office.

Notice Posting

Every retail dealer, at each location, shall post a notice, at least 8" by 10", which states:

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

Every retail dealer, at each location, in each sales office, at each desk where terms of sales or lease transactions are discussed, shall post a notice at least 8" by 10" which states:

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



Did you know?

Every retail dealer shall have these items posted in the main sales location, visible to the public. The notices must also be visible to the retail customer at the time of document explanation and signing. The no cooling off period provisions are also a required signoff on the 553, retail sales contract.

Permanent signage required for retail locations sufficient to withstand weather. A temporary sign is allowed with a permanent sign on order.

It shall have an area of at least two (2) square feet per side. It shall be able to be read from a distance of fifty (50) feet.

At each location the dealer must post the dealer's license.

At each location the dealer must post the sales license(s)

The sales license fee is \$ 93. with no test, good for three years.

- [Dealer Salesperson Application](http://www.dmv.ca.gov/forms/ol/ol16.pdf) (<http://www.dmv.ca.gov/forms/ol/ol16.pdf>)
- [Livescan Form](http://www.dmv.ca.gov/forms/ol/dmv8016.pdf) (<http://www.dmv.ca.gov/forms/ol/dmv8016.pdf>)
- [Livescan Locations](http://ag.ca.gov/fingerprints/publications/contact.pdf) (<http://ag.ca.gov/fingerprints/publications/contact.pdf>)



Did you know?

The DMV issues a salesperson license to any individual for the fee of \$ 93. following submission and approval of an [application](http://www.dmv.ca.gov/forms/ol/ol16.pdf) (<http://www.dmv.ca.gov/forms/ol/ol16.pdf>) and a [livescan](http://www.dmv.ca.gov/forms/ol/dmv8016.pdf) (<http://www.dmv.ca.gov/forms/ol/dmv8016.pdf>) fingerprint card. A background check and credit check are also completed. For the license to be active it must be assigned to an active dealer license. The salesperson license must be posted in the main office of the dealer granting permission. A licensed salesperson may only be assigned to one dealership at a time.

See: [Livescan Locations](http://ag.ca.gov/fingerprints/publications/contact.pdf) (<http://ag.ca.gov/fingerprints/publications/contact.pdf>)



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Fee Schedule

	Initial Fees	Renewals	Late Penalty
Original Application	\$ 151.	\$ 101.	\$ 150.
Each Branch License	\$ 70.	\$ 70.	\$ 70.
Each Fingerprint Card	\$ 42.	-0-	-0-
Each Dealer Plate *	\$ 41.	\$ 41.	\$ 3. 1-10 days
			\$ 6. 11-30 days

Renewal fees are due annually and must be paid by the expiration date. You may renew within 30 days after expiration, with penalty as listed above. After 30 days, NO renewal means NO more license.



Did you know?

Renewal is done annually, **class is done every two years**, we suggest renewal docs, certificate and check be copied prior to being sent to the DMV headquarters occupational licensing office. You may contact the local inspector prior to renewal for issuance of temporary dealer plates and wall license.

- Some counties impose additional fees for dealer plates.
- **Every dealer must complete a 4 hour continuing education course, once every two years, prior to license renewal. Only those dealers who are wholesale only, selling fewer than 50 cars per year are exempt.**
- Along with renewal notice send the original continuing education certificate of completion to:

**DMV Occupational Licensing
PO Box 932342
Sacramento, CA, 94232 - 3420**
- See Continuing Education Exemption Form (<http://www.dmv.ca.gov/forms/ol/ol257.pdf>)



Did you know?

The DMV prefers that, when available, the owner or corporate officer of each dealership attend the dealer continuing education course on behalf of the dealership.

Dealer Notification

Every dealer shall notify DMV:

- 10 days prior to the effective date of an ownership change.
- 30 days prior to the effective date of any corporate change.
- \$ 70. is the fee for a corporate change.

If there has been an ownership or corporate change, the dealer will need to submit a new original application and fees, along with a new dealer bond. Once the application is completed, the dealer will be issued a new dealer number. If there is a corporate officer change, an OL-15, Application, Personal History Questionnaire, Livescan and a fee of \$ 70.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Any change in the dealer address, be it branch add or removal, name change, add or delete category, add autobroker, dealer type change. or location change requires immediate notification to the Inspector of jurisdiction, an application and fees posted prior to change.

See Related links:

- [Corporate Officer Change Form](http://www.dmv.ca.gov/forms/ol/ol15.pdf) (<http://www.dmv.ca.gov/forms/ol/ol15.pdf>)

- [Dealer License Change Form](http://www.dmv.ca.gov/forms/ol/ol21.pdf) (<http://www.dmv.ca.gov/forms/ol/ol21.pdf>)

Dealer license & plates automatically & immediately cancel whenever:

- Change of the established place of business is made w/o notice.
- Established place of business is abandoned w/o notice.
- Bond is not maintained.
- Inadequate bond is not replaced or restored.
- Voluntary surrender of special plates & license.
- Involuntary surrender of special plates & license.
- Failure to notify DMV new person designated as licensee.
- Suspension or revocation by the Secretary of State.
- Suspension or revocation by the Board of Equalization.

BROKER AND CONSIGNMENT LICENSING

Licensed Dealers may be auto brokers.

An auto broker must complete a written agreement with a customer prior to arranging a sale through another dealer.

The agreement must clearly indicate the broker fee.

The broker fee can be paid by the selling dealer or buyer.

The autobroker endorsement fee for this license is:

- \$ 50. the first year, \$ 25. for renewal.

The broker must maintain a log of each brokered transaction.

See Related Links:

- [DMV Brokering Agreement: Form and Contents](http://www.dmv.ca.gov/pubs/vctop/d05/vc11738.htm) (<http://www.dmv.ca.gov/pubs/vctop/d05/vc11738.htm>)

- [Auto Broker Log](http://www.dmv.ca.gov/forms/ol/ol75.pdf) (<http://www.dmv.ca.gov/forms/ol/ol75.pdf>)

- [DMV Consignment Form Requirements](http://www.dmv.ca.gov/pubs/vctop/d05/vc11730.htm) (<http://www.dmv.ca.gov/pubs/vctop/d05/vc11730.htm>)



Did you know?

A broker endorsement allows the dealer to act as a broker for his customer, making arrangements for a sale through another dealer for a fee. This requires a signed [broker agreement](http://www.dmv.ca.gov/pubs/vctop/d05/vc11738.htm) (<http://www.dmv.ca.gov/pubs/vctop/d05/vc11738.htm>) with specified wording and disclosure. The brokered transaction must trigger and deliver from the selling dealers licensed location. A broker may operate without a dealers license under newly written provisions.

A consignment is an arrangement under which a dealer agrees to accept possession for the purpose of sale and the owner will then pay the dealer from the proceeds of the sale.

Auto consignors must be licensed dealers.

Auto consignors must write an agreement prior to sale.

Auto consignors must complete an accounting and make payment within 20 days of the date of sale.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Failure to complete and/or comply with the terms of the agreement or failure to pay the consignor within 20 days of the sale is cause for suspension and/or revocation of the dealer's license.

The consignment agreement shall include:

vehicle description	
date of agreement	
current market value	*low book value
liens outstanding	
repairs to be made	*repairs to be left as-is and disclosed compensation to consignor

The sales accounting, within 20 days, shall include:

- date of sale
- repairs authorized with records
- liens payable to lienholders
- evidence of payment of liens
- total sales price



Did you know?

A wholesale dealer may only conduct business within the auto industry, dealer to dealer, in and out of auction sales and to licensed dismantlers. A consignment from a retail customer requires the dealership to hold a retail license and a signed consignment agreement with specified wording and disclosure. See [DMV Consignment Form Requirements](http://www.dmv.ca.gov/pubs/vctop/d05/vc11730.htm) (<http://www.dmv.ca.gov/pubs/vctop/d05/vc11730.htm>)

PERMANENT BRANCH LOCATIONS

A dealer branch is any location beside the principal location which is maintained for the sale and/or exchange of motor vehicles.

Branch license required when retail vehicles are offered for sale.

Any attempt, solicitation or negotiation at the location requires a license.

On all reports of sale from a branch location the dealer shall use that location and not his principal location address.

*Taxes are distributed by point of sale & county of residence.

The dealer shall submit to DMV a branch application, with a fee of \$ 70.

All permanent branch locations must provide with application:

- [Zoning Verification Letter](http://www.dmv.ca.gov/forms/ol/ol902.pdf) (<http://www.dmv.ca.gov/forms/ol/ol902.pdf>)
- [Photo set of Location and Office](http://www.dmv.ca.gov/vehindustry/ol/photoreq.htm) (<http://www.dmv.ca.gov/vehindustry/ol/photoreq.htm>)
- [Dealer License Change Form](http://www.dmv.ca.gov/forms/ol/ol21.pdf) (<http://www.dmv.ca.gov/forms/ol/ol21.pdf>)



Did you know?

The sales location information on the ROS is the determining factor for distribution of the major share of sales tax collected on a dealer retail vehicle sale. The sales location does not affect the sales tax rate charged, always remember, the sales tax rate applied to a retail sale is determined by the sales tax rate for the county of residence of the buyer.

OFFSITE SALES / TEMP BRANCH LOCATIONS

An offsite sales license is needed when a dealer, at a location used for a limited duration, intends to engage in motor vehicle sales. These sales are handled as temporary branch location sales.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

All temporary branch locations must provide with application, ten days prior to opening, to the Inspector of jurisdiction:

Copy of lease, rental agreement

Copy of promoter's notice

Zoning verification letter

Photo set of location and office

See Related Links:

- [Application for Temporary Branch Form](http://www.dmv.ca.gov/forms/ol/ol73.pdf) (<http://www.dmv.ca.gov/forms/ol/ol73.pdf>)

- [Zoning Verification Letter](http://www.dmv.ca.gov/forms/ol/ol902.pdf) (<http://www.dmv.ca.gov/forms/ol/ol902.pdf>)

- [Photo Set Procedures](http://www.dmv.ca.gov/vehindustry/ol/photoreq.htm) (<http://www.dmv.ca.gov/vehindustry/ol/photoreq.htm>)

The branch location must have:

Sign of two square feet readable from 50 feet with dealer name and permanent license address posted Temporary permit, Salesperson licenses, No Cooling Off and Vehicle Inspection Notice signs posted Display area independent of other dealers with no other vehicles. No parking of public or employee vehicles in display area

A branch license is not required when:

Motor vehicles are displayed on a temporary basis at a location such as a public shopping mall, an exhibition or similar exhibit provided the dealer meets the following provisions:

The vehicle display is less than 30 days and No sales are offered. No consideration, deposit or trade-in to be accepted.

Location must be of a type available to all dealers. The dealer shall, display a sign, including the dealer's name and principal location. with the statement :

No sales permitted and no deposits accepted at this location.



Did you know?

A retail dealership may apply and be granted a temporary dealer license to conduct off site sales at a specific location for up to 30 days. Local zoning approval is required as well as approval from both the dealers DMV inspector of jurisdiction and the DMV inspector of jurisdiction for the temporary location. These events are commonly known as tent sales. Many dealers have complained to DMV about roving inventories stocking these tent sales. Any avenue for slowing or eliminating these events rests with local zoning officials.

CONDITIONAL SALES CONTRACT

The contract definition derives from California civil code section 2981.

"Any contract for the sale of a motor vehicle between a buyer and seller under which possession is delivered to the buyer and seller and either:

(a) the title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition, or

(b) a lien in the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition."

A successful sale is a process involving a certain order of events.

A sale made in the wrong order may "unwind" a sale.

A sales tax refund is allowed if the buyer does not take possession.

All contracts for purchase of a motor vehicle must be in writing. The contract must be contained in a single document.

We recommend contracts containing "California Judicial Council" stamp.

The contract must contain all agreements of the buyer and seller with respect to the total cost and terms of repayment for the motor vehicle. This shall include any evidences of indebtedness, including a promissory note.

All contracts for the purchase of a motor vehicle must be signed by both buyer and seller and delivered to the buyer.

- A contract signed by the dealer only is called a purchase order.
- **A Spanish copy, blank, attached to the original for Spanish speakers.**



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE



Did you know?

Remember, if any of the buyers listed have a Spanish surname, a copy of the contract must be provided, in blank form, to the buyer, prior to signing and prior to the contract review period. The dealer should have a document for the buyer to initial to acknowledge receipt of this mandated Spanish language version.

All contracts for the purchase of a motor vehicle require certain disclosures as per the civil code and federal regulation z. These items must be disclosed on the sales contract:

Itemization Of Amount To Be Financed

cash price	* w/ demand of title price + tax only
document prep fee	\$ 45. maximum. (same for ALL)
smog fee	\$ 50. maximum for inspection \$ 8.25 maximum for certificate
sales tax	based on county of residence
service contract charge	only if sold by dealer (extra warranty)

Amounts Paid To DMV

license fee	\$ 15.
registration fee	collect if: registration expired or within 60 days dealer pays to date of sale buyer pays forward to estimate .2.2% + \$ 60. x .40 Dealer Hotline 800.777.0133

Amounts Paid For Insurance Premiums * only if sold by dealer

Down Payment Total

trade-in allowance	describe vehicle & subtract payoff
deferred down payment	paid within 30 days * no post dated checks
cash amount	paid on date of contract

Total Amount Financed * must match Amount Financed below.

These items must be disclosed on the sales contract per federal law:

- Annual Percentage Rate
- Finance Charge
- Amount Financed
* must match Total Amount Financed above.
- Total Of Payments
- Total Sales Price
- Payment Schedule



Did you know?

The latest version of the sales contract used in California is called a Law Supply 553, January 04 edition and has a minimum of four signatures for the buyer. The Law Supply 553 is suggested for use because of its endorsement from the California Judicial Council. The dealer makes an offer on the sales contract and when signed, constitutes a purchase order, specifying the total price of the vehicle with all charges, taxes and fees itemized. When the buyer



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

accepts the terms of the contract, **a minimum of four signings are needed.** They are acknowledgement of: **1)** broker deal or non broker deal, **2)** existing California law requiring a drivers license and insurance to operate the vehicle upon departure of the dealership, **3)** where to go to make a complaint and **4)** the provisions of the no cooling off period.

Refunds

A refund of any and all moneys paid by purchaser shall be made by the dealer when the purchaser elects not to sign the contract.

- Deposits do not give the dealer ANY advantage.
- Even if the purchaser signs the contract and pays for the vehicle the sale does not transact until the purchaser takes delivery of the vehicle.

Remember: Seller signs, Buyer signs, Buyer gets copy, Seller gets cash.

The civil code and federal truth in lending regulations apply to all dealer transactions.

A printed contract form from a law form supply house is required.

The dealer may repossess w/o notice if the buyer defaults.

*We suggest you keep a set of KEYS for each vehicle under contract.



Did you know?

The retail sales contract is like a light switch. It is either on or it off. If it is off the dealer must return all money collected and the trade - in. **No money may be held for any reason.**

Contract Breach

A dealer breach nullifies the contract and the dealer is required to refund any and all moneys.

- Do not deliver the vehicle until all contract items have been done.
- A dealer DO list carries a liability and leaves the contract OPEN.

The party carrying the contract must prove default as a prerequisite to further action. They may repossess as follows:

- A 15 day notice must be issued. The original buyer may pay in full and be reinstated. This may occur multiple times w/o penalty.
- The original buyer shall receive sale information within 20 days of sale.
* 20 day consignment sale rules apply.
- Loan amount, repossession costs & Division 12 items are the only charges against this type of sale.
- A bill or a check must be issued to close the sale.
- Whenever a contract fails to execute due to an inability to obtain financing the dealer must:

Refund all moneys paid by purchaser

Return trade-in vehicle to purchaser

*Never sell a trade-in vehicle until the contract is fully executed.

Spanish Speaking Buyers

All sales contract negotiated in Spanish require the dealer to provide a Spanish language contract.

All disclosure signs posted should be in Spanish.

Any required disclosures should have blank Spanish copy attached.

A statement signed by the Spanish speaker is recommended.

The maximum fee a dealer may charge for document prep is \$ 45.



Did you know?

The retail sales contract is like a light switch. It is either on or it off. If it is off the dealer **must** return all money collected and the trade - in.

MOTOR VEHICLE FINANCING

Once again, the dealer must disclose the terms of financing on the sales contract as per sections 2981 of the civil code & regulation Z.

The Truth In Lending Act enables buyers to compare the costs of borrowing from different lenders. The Truth In Lending Act, under regulation Z requires lenders to disclose the terms and costs of all loan plans, including:

- the annual percentage rate, points and fees,
- the total of the principal amount being financed,
- payment due date and terms,
- including any balloon payment where fees would be charged,
- including the highest rate the lender would charge,
- how it is calculated and the monthly payment,
- total finance charges, whether the loan is assumable, application fees, annual or one time fees and pre-payment penalties.

The simple interest method & the precomputed basis method are the two methods permissible by the civil code (<http://www.dmv.ca.gov/pubs/vctop/appndxa/civil/civ2981.htm>).

"Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

"Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

- Usury laws have been eliminated and rates do vary.
- Regardless of the method, the rate must be converted into an annual percentage rate applicable to the unpaid balance.
- The unpaid balance, using the annual percentage rate must then be computed into a base monthly payment over the term of the contract.

*This allows a comparison between dealers for a similar vehicle.

See Civil Code Lending Requirements (<http://www.dmv.ca.gov/pubs/vctop/appndxa/civil/civ2981.htm>)



SALES AND USE TAX

All dealers are required to obtain and post a permit from the State Board of Equalization to collect and remit sales & use taxes.

All dealers shall, in every transaction of a used vehicle, pay to the state the applicable sales and use taxes.

We recommend a separate check to the board for each retail transaction. The memo box of the check should include:

- ROS number
- Year make and model of the vehicle
- Taxable sales price (with docs fee and smog inspection included)
- Buyers county of residence
- Tax rate for that county.
- These checks should be set aside for monthly or quarterly reports.

The basic sales and use tax is 7.25 %

There are some counties with increased rates.

Check with state board local office for applicable rate at your location.

Dealers are not required to collect additional tax if the buyer lives outside the higher tax district as per B of E regulation 1823.5(d).

The taxable selling price of the vehicle is the total of the following:

- The vehicle cost
- The accessories added and the labor to install them.
- The document preparation fee (\$ 45. Max.)
- The smog inspection fee (\$ 50. Max.)

This total is then used and multiplied by the applicable tax rate for the buyers county of residence. For example:
1000. + 45. + 50. = 1095. x .0875 = \$ 96.00 tax due. This means:

Price + docs + smog = total x Alameda County = Tax Due

The following items are non-taxable:

- Finance charges
- License & registration fees
- Insurance charges
- Smog certificate fee (\$ 8.25 Max.)

All dealers shall, when applicable, pay a separate use tax for vehicles in inventory obtained with advance registration. All dealers shall, when applicable, pay a separate use tax for vehicles in inventory used for personal use. Use tax rate is equal to the sales tax rate at the licensed location.

See Related Links:

- [Board of Equalization FAQs](http://www.boe.ca.gov/faqs/faqsindexcont.htm) (http://www.boe.ca.gov/faqs/faqsindexcont.htm)
- [Board of Equalization \(BOE\)](http://www.boe.ca.gov/invest/filecomp.htm) (http://www.boe.ca.gov/invest/filecomp.htm)



Did you know?

There are two state agencies the dealer must obey when holding an active dealer license. The Board of Equalization permit is required of all dealers. This permit allows the acquisition of vehicles without paying sales tax. It allows the



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

acquisition of parts for inventoried vehicles without paying sales tax. It mandates the collection of sales tax on every sale unless the appropriate exemption paperwork is on file. The two typical tax exempt sales are wholesale, dealer to dealer and out of state sale with no personal use within California.

DEPARTMENT OF MOTOR VEHICLE FORMS

The report of sale (ROS) book is required of each dealer, provided by and remains DMV property. There are separate wholesale and retail report of sale forms.

The wholesale report of sale form is a three-part form and one part must be sent to DMV within 5 days upon vehicle transfer to another dealer. One copy remains with the selling dealer and one with the buying dealer.

The retail used vehicle report of sale is required for each sale. The four parts are:

Application copy	(mail w/title & reg262 within 30 days, local)
Dealer's notice	(mail to DMV within 5 days, Sacramento)
Purchaser's operating copy	(in vehicle window)
Book copy	(in office for four (4) years)

Mark voided forms and place all parts in your dealer book.

The dealer must keep track of each numbered form.

The DMV recommends using the forms in numerical order.

The retail used car dealer uses two forms to transact business.

The retail report of sale form is a full page and used for all retail transactions.

The wholesale report of sale form is one half (1/2) page and used for all wholesale transactions.

Remember, a retail dealer is automatically a wholesaler (included in the license). But, a wholesaler is not necessarily a retail dealer.

Retail Timeline and the Penalties which apply

A retail sale begins on the date listed on the Report of Sale (ROS):

Retail Time Line within:	5 days	20 days	30 days	50 days
ASF Penalties:	\$5. (no notice sent)	\$5. (incorrect notice posted on vehicle)	\$5. (no documents sent)	\$25. (no corrections returned)

- within 5 days a notice must be sent to DMV (DMV, PO Box 944292-2920, Sac,CA, 94244-2920)
- within 20 days (per regulation, extended to 30 days by memo) fees must be posted
- within 30 days documents must be posted
- within 50 days corrections must be returned

If this is not done in a timely manner the following ASF (administrative service fee) apply:

- \$5. ASF for not sending the retail notice within 5 calendar days, not counting the date of sale
- \$5. ASF for posting the incorrect notice in the vehicle
- \$5. ASF for not sending documents within 30 calendar days, not counting the date of sale
- \$25. ASF for not sending corrections and completing an application within 50 days, not counting the date of sale

The section which applies and outlines this on the DMV website is:

<http://www.dmv.ca.gov/pubs/vctop/d03/vc4456.htm>

Also see: [Section 4456 - Use and Display of Report-of-Sale Forms](#) which identifies the 30 day requirement to post fees on a used vehicle sale (<http://www.dmv.ca.gov/pubs/vctop/d03/vc4456.htm>)



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

If you need forms:

- In an emergency, contact your DMV Inspector.
- For a list of Inspectors, access @ www.dmv.ca.gov
- Or go to: [DMV Inspector Offices](http://www.dmv.ca.gov/fo/inspector_office.htm) (http://www.dmv.ca.gov/fo/inspector_office.htm)
- Order forms at DMV, PO Box 932242, Sacramento, CA, 94232
- Or go to: [DMV Forms Office](http://www.dmv.ca.gov/pubs/brochures/fast_facts/ffdmv1.htm) (http://www.dmv.ca.gov/pubs/brochures/fast_facts/ffdmv1.htm)

The books are the property of the DMV, must be available for inspection and the dealer must take steps to reasonably store and protect the documents.



Did you know?

The purpose of the locked cabinet is to isolate the assigned Report of Sale (ROS) forms issued by the DMV to the dealership. There are two types of ROS available for issue to the dealer, wholesale and retail. If the dealer is also an auction, a third type of ROS, auction report of sale is available. These are numbered and to be used in numerical order. Controlling access to these blank ROS forms is an important management responsibility. Voided original forms are to be held in the required dealer book, within the main location sales office. Missing ROS forms will, at audit, be averaged to the yearly gross sales price per vehicle and sales tax will be collected for each missing form. This can be a very expensive bookkeeping error. Do not discount the importance of these forms.

Report of Sales

Each retail ROS form must be completed in its entirety. The sections are :

1. Date of sale as is the date the buyer paid for the vehicle or the date the buyer signed a contract and took possession of the vehicle.
2. The vehicle make and not the model.
3. The manufacturer's year model as on title.
4. The body type abbreviation as per DMV.
5. The mode of power, generally gas or diesel.
6. The number of axles.
7. The unladen weight.
8. The vehicle identification number. *Check vin as on title.
9. The last year of registration.
10. The last state or country of registration.
11. The last registered license plate number.
12. The buyer's residence county, to determine fee.

13. The buyer's name and California DL or ID.
14. The buyer's mailing address.
15. The dealer's name, address & authorized signer's signature.
16. The dealer and salesperson license numbers.
17. The buyer's signatures.
18. The vehicle odometer mileage

The five day dealer notice of sale copy, bottom of original, shall be mailed to the DMV within **five calendar days, not counting the date of sale.**

The temporary operating copy shall be affixed to the vehicle interior so that it may be read from outside of the vehicle. If the vehicle has expired registration or will expire within 60 days place the copy in the lower rear window on the drivers side.

The vehicle may have printed flashers while temporary is in the window.

If the vehicle is missing a front plate, remove rear plate, destroy it, charge the customer an additional \$ 16. and make application for new plates.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE



Did you know?

The DMV requires fees to be posted within 30 days following the date of retail sale on a used vehicle. The DMV requires posting of fees within 20 days following the date of retail sale for new vehicles.

The fees shall be delivered to the DMV within 20 days of the date of sale.

The dealer must pay fees, including penalties if expiration occurs prior to acquisition into dealer inventory. The buyer only pays fees from the date of sale forward, and the fee must be prorated, if applicable. The buyer must pay one full year of fees when making application of an out of state vehicle. Dealer may not charge for required vehicle verification.

The application copy shall be delivered to the DMV, along with all transfer documents, within 30 days of the date of sale.

As of 01-01-99 fees may be paid within 30 days after the date of sale.



Did you know?

Administrative Service Fees are applied when a dealer submits a retail application and fails to complete the application in a timely manner or omits any of the required steps in the process. The penalties are \$ 5. for no five day notice, \$ 5. for posting the wrong notice, \$ 5. for no documents and fees posted within thirty days and \$ 25. for failing to complete and correct an application within 50 days of the date of sale.

VEHICLE LICENSING & REGISTRATION

There are two types of California title. They are complying title, date & miles printed on the front, and non-complying title, no date & miles printed.

To transfer a used vehicle you need to submit a signed title or duplicate application and a completed DMV REG262 after 05-01-98.

See: Duplicate Title Form (<http://www.dmv.ca.gov/forms/reg/reg227.pdf>)

You may encounter old style paperwork and you may still have to process this to complete a transfer.

The DMV REG 262 contains, on one form, all of the documentation needed for most vehicle transfers. The sections are:

Vehicle identification section	*Transfers w/o vin will be returned.
Bill of sale section	The dealer identifies the buyer & seller, purchase price & if transfer is gift.
Odometer disclosure statement	Must be complete and signed by both the buyer/ seller and the dealer.
Power of attorney	This allows the dealer to register the vehicle into the buyer's name. The power of attorney is not valid without a signature.
Buyer and seller information	Must be completed.

All relevant documents pertaining to the terms and conditions of any sale shall be signed by the buyer. Printed names and signatures must be in ink.

Errors or alterations on this form will void and a new one will have to be completed. No strikeouts, No whiteout and No highlighting.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

A dealer cannot represent both a buyer and a seller in the same transaction regarding assignment of power of attorney. Two bill of sale forms required.

No person shall drive, move or leave standing upon a highway.....any motor vehicle unless it is registered and the appropriate fees have been paid in full.

If a vehicle has expired California registration or it will expire within 60 days or it is an out of state vehicle, registration fees shall be collected by the dealer at the time of sale.

All registration fees collected by the dealer are to be submitted to the DMV within 20 days of the date of sale.

* As of 01-01-99 fees may be paid within 30 days after the date of sale.

All dealers must pay a transfer fee following the sale of a used motor vehicle to the DMV. The fee is \$ 15. as of 07-01-99. The time requirements for transfers are as follows:

If the registration is expired or out of state the fees must be paid within 20 days from the date of sale.

All other applications and transfer fees must be submitted and paid within 30 days of the date of sale.

If the application is first submitted within 30 days of the date of sale and the application is returned the dealer has 30 days to correct and return the item but may not exceed 50 days from the date of sale to complete the transfer with the DMV to avoid a penalty.



Did you know?

The REG262 is a scan ready form used to collect all pertinent information regarding a vehicle transfer including a valid power of attorney. It must always be submitted as an original and has a secondary purpose of aiding the DMV and the Board of Equalization (<http://www.boe.ca.gov/>) in capturing unlicensed dealers. See: Board of Equalization FAQs (<http://www.boe.ca.gov/faqs/faqsindexcont.htm>)

Administrative Service Fees

Administrative service fees are penalties issued against a dealer by DMV.

Each ASF count against a dealer can be used as a separate count against the dealer's license in any administrative action taken against the dealer.

ASF penalties cannot be passed on to the buyer.

When the following omissions occur a penalty is required:

- Dealer fails to send in "dealer notice" of report of sale.	ASF penalty of \$ 5.
- Dealer fails to display a report of sale copy on vehicle.	ASF penalty of \$ 5.
- Dealer fails to submit application with all fees, penalties and supporting documents to DMV within 30 days of the date of sale.	ASF penalty of \$ 5.
- Dealer fails to clear an application within 50 days	ASF penalty of \$ 25.

Application for waiver of fees requires a statement of facts from the manager of the DMV field office accepting application. Unpaid ASF's can result in bond activation and loss of license.

An out of state delivery occurs when a buyer resides in another state and he wishes to register the vehicle in that state. The used report of sale should state : " for registration out of state ". The buyer must obtain registration from his home state before the vehicle is moved on the highways, or the buyer must obtain a one way permit from the DMV for a fee of \$ 15.

Notarized documentation of direct delivery needed for tax rules, unless a bill of lading from a licensed transporter is on file.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Board of equalization forms recommended

Access them @ www.boe.ca.gov

For vehicle sales out of country, if time is critical:

A quick title request for certificate of title to be issued within 72 hours may be honored for an additional fee of \$ 15. All original fees still apply and a completed original or transfer application must accompany the request.

All quick title requests must be submitted to a specific office for processing.

The quick title office:

Department of Motor Vehicles
72 Hour Special Processing D - 238
2415 First Avenue
Sacramento, California, 95818

A dealer shall, without notice or request from the buyer and/or DMV return all fees overpaid by a buyer for licensing, taxes and transfer of vehicle.



Did you know?

Any excess fees collected by the dealer **must be returned** in total in a timely manner to the buyer.

A dealer may not collect a non- refundable deposit and must refund all deposits when a buyer chooses not to complete a sales transaction.

Delivery of the vehicle at the licensed location is required for completion.

This would include so called "auto buying service" fees.

This would include deposits for custom or specialty vehicles.

See Related Links:

- [ASF Unit FAQs](http://www.dmv.ca.gov/vehindustry/ol/generalfaq.htm) (http://www.dmv.ca.gov/vehindustry/ol/generalfaq.htm)
- [Board of Equalization \(BOE\)](http://www.boe.ca.gov/) (http://www.boe.ca.gov/)
- [Board of Equalization FAQs](http://www.boe.ca.gov/faqs/faqsindexcont.htm) (http://www.boe.ca.gov/faqs/faqsindexcont.htm)
- [Board of Equalization Tax Evasion Complaint](http://www.boe.ca.gov/invest/filecomp.htm) (http://www.boe.ca.gov/invest/filecomp.htm)



Did you know?

Administrative Service Fees (<https://www.ovstudio.com/renewonlinenow.com/study.php?>) are applied when a dealer submits a retail application and fails to complete the application in a timely manner or omits any of the required steps in the process. The penalties are \$ 5. for no five day notice, \$ 5. for posting the wrong notice, \$ 5. for no documents and fees posted within thirty days and \$ 25. for failing to complete and correct an application within 50 days of the date of sale.

Failure to pay an administrative fee will result in bond activation and eventual cancellation of your dealers license. You may protest an ASF if you desire, but we suggest you post the fee and then file a protest with the ASF unit in Sacramento. Remember, the manager of the field office who process the application may request waiver of the ASF with the filing of a statement of facts (<http://www.dmv.ca.gov/forms/reg/reg256.pdf>). Also See: [ASF Unit FAQs](http://www.dmv.ca.gov/vehindustry/ol/generalfaq.htm) (<http://www.dmv.ca.gov/vehindustry/ol/generalfaq.htm>)



VEHICLE EQUIPMENT, DIVISION 12 COMPLIANCE

Dealer liability exists on all safety equipment. A vehicle sold by a licensed dealer must comply with all division 12 requirements.

The vehicle must be safe.

The vehicle must comply with federal safety standards.

The lighting equipment must be operational.

The brakes must be above 30% useful life.

The rear view mirrors must be operational.

The horn must be operational.

The smog devices must be operational.

The safety belts must be operational.

The seatbelt warning system must be operational in 1st sold after 01-01-93.

The bumpers must be in place.

The muffler must be operational.

The tires must be above minimum wear standards.

The windshield must be in place with no cracks.

The wipers must be operational.

Absolutely NO waiver of division 12 requirements

See [Division 12 violations](http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm) (<http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm>)

No as-is sales are allowed. If a vehicle does not meet division 12 requirements, it may only be sold to another dealer with a disclosure, a statement of facts stating:

This vehicle DOES NOT meet division 12 requirements.

This vehicle is being sold for parts. *not to be driven again or

This vehicle is being sold for salvage. *may be reconditioned

As of Jan 1, 2001. all auctions must be licensed dealers.

Disclosure requirements for as - is vehicles required in writing.

A proper **disclosure** is made with a **STATEMENT OF FACTS**

See: **Statement of Facts** -(<http://www.dmv.ca.gov/forms/reg/reg256.pdf>)



Did you know?

The [buyers guide](http://www.ftc.gov/bcp/online/pubs/buspubs/filledbg.pdf) (<http://www.ftc.gov/bcp/online/pubs/buspubs/filledbg.pdf>) is a federal requirement for all vehicles sold at retail by a licensed dealer. The dealer may offer a warranty or may offer the vehicle as-is. The warranty is negotiable at the point of sale and a modified [buyers guide](#) may be created following negotiation. There is a \$ 10,000. fine for each vehicle offered for sale without a posted [buyers guide](#). Remember, an implied warranty of [Division 12](#) (<http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm>), the minimum safety standard applies to all vehicles sold at retail and this requirement cannot be waived. The dealer is to list all known defects on the buyers guide as well as the warranty, if any, offered with the sale of the vehicle. The [buyers guide](#) must have a contact name with phone number suggested. The buyer must receive a copy of this guide before any sale proceeds. The only item which would proceed the [buyers guide](#) signing would be a [statement of facts](#) (<http://www.dmv.ca.gov/forms/reg/reg256.pdf>) disclosure of prior history or known defect.

ODOMETERS

The odometer must be functional & in working condition at the time of sale. It is an illegal act to operate a motor vehicle with the intent to defraud. Altered odometers are also illegal. It is a crime to disconnect, reset, rollback or alter an



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

odometer with the intent to alter the mileage displayed. Repaired odometers require disclosure unless mileage remains the same.

A proper **disclosure** is made with a **STATEMENT OF FACTS**.

See: **Statement of Facts** (<http://www.dmv.ca.gov/forms/reg/reg256.pdf>).

If the odometer is repaired and cannot accurately reflect the mileage, the odometer shall be adjusted to read "**00000**" **and** a plate shall be attached to the left doorframe indicating the mileage before and date of service.

* This plate shall be made of engraved metal or hard plastic.

Odometer disclosure shall be completed by the legal owner of record, the reposessor, on all vehicles that have been repossessed, using a separate odometer disclosure statement of facts form.

The word "**repo**" is entered in lieu of a signature on the face of complying title. A certificate of repossession is used to complete a transfer without the registered owner's signature.

See: Repossession Form (<http://www.dmv.ca.gov/forms/reg/reg119.pdf>)

SMOG / AIR POLLUTION CONTROL

All used motor vehicles, must pass a smog test and certificate on file prior to offering a vehicle for retail sale.

For purposes of the smog test vehicles must be in excess of **7500** miles.

For purposes of California registration, out-of-state vehicles with less than 7500 miles cannot be registered, **unless a "California Certified" federal emission sticker is posted on the vehicle**. See: CA Air Resources Board Guidelines for Non California Vehicles (<http://www.arb.ca.gov/msprog/NonCAVeh/NonCAVeh.pdf>)

Dealer to dealer sales have an exemption from smog test requirements.

A vehicle is assumed to pass unless disclosed in writing.

Therefore, Statement of Facts & salvage disclosure required if no smog or non division 12.

As of January 2001, ALL auctions must be licensed dealers and written disclosure required on as-is sales to dealers @ auction sale.

The maximum charge for smog inspection is \$ 50.

The maximum charge for the certificate is \$ 8.25.

* if smog fee exceeds allowance only charge \$ 58.25.

Only increase fee when the law changes per DMV.

As of 01-2000, dealer smog good for **(2)** two years.

The current calendar year minus 29 equals the year model exempt from smog certification.

Example: The calendar year is 2004- 29 = 1975 exempt year model

A Release of Liability, filed in the name of the dealership, as buyer, may assist in removing enhanced status for dealers in non-enhanced areas. It will also register as an application in process moving the vehicle into dealer inventory in the DMV computer database.

See Related Links:

- Smog Query of Vehicle History (<http://www.smogcheck.ca.gov/vehtests/pubtstqry.aspx>)
- Smog Requirements by Zipcode (<http://www.smogcheck.ca.gov/ZIPAREA/ziplookup.aspx>)
- Active Smog Stations (<http://www.smogcheck.ca.gov/StationList/StationList.aspx>)
- Release of Liability (<http://www.dmv.ca.gov/forms/reg/reg138.htm>)
- The BAR (<http://www.smogcheck.ca.gov/StdHome.asp>)

BUREAU OF AUTOMOTIVE REPAIR REGULATIONS

Any dealer who desires to offer and conduct automotive repair is required to register with the Department of Consumer Affairs. This registration is required by the Bureau of automotive repair Act and includes all who, for compensation, engage in the business of repairing or diagnosing vehicle malfunctions.



VEHICLE HISTORY DISCLOSURES

The dealer **must** accurately reflect the known condition of the vehicle at the time of sale and/or advertisement. The dealer **must** disclose material damage to a buyer. This is any damage a buyer **might** want to know in making their decision to purchase the vehicle. Failure to disclose may result in a sale being unwound (give the money back) and punitive damages. This information shall be disclosed on a statement of facts form. At this time there is no section which requires this disclosure, yet section 9900 cvc requires it in new car and demo transactions.

Some dealers perform a carfax type report on each vehicle to avoid unpleasant surprises.

Once again, repaired odometers require disclosure unless the mileage remains the same and the odometer remains functional.

Disclosure of prior history usage is required when a vehicle has been:

Rental, Taxi, Insurance salvage, Revived salvage, City, county, state or federal vehicle or any former law enforcement vehicle.

Disclosures must be signed by the buyer prior to completion of the contract.

Minor items may be listed on the Federal Buyer's Guide.

Required disclosures should be done on a Statement of Facts form.

A Spanish language copy should be provided, when appropriate.

The lemon law requires manufactures to repurchase or replace vehicles from new car buyers when they prove to be defective. IF a new vehicle is in the shop more than 30 days or repaired 4 or more times, it is a defective vehicle. See Lemon Law Definition (http://www.lemonlawamerica.com/state_laws/california.htm)

And a "lemon" as per civil code. As such, any dealer who offers a lemon vehicle for sale, prior to lease, sale or transfer must provide the buyer a statement which reads: This motor vehicle has been returned to the manufacturer due to a defect in the vehicle pursuant to consumer warranty laws. The title to this vehicle is permanently branded with the notation "lemon law buyback".

The dealer shall affix a plate identifying the vehicle as a "lemon law buyback" to the left front door frame and it cannot be removed.

* This plate shall be made of engraved metal or hard plastic.

It is the dealers responsibility to brand title and doorframe of out of state vehicles for resale.

See Related Links:

- Car History Report - Carfax (<http://www.carfax.com/>)
- AutoCheck Vehicle History Reports: Free VIN Check (<http://www.autocheck.com/consumers/gatewayAction.do>)
- Salvage Declaration Form (<http://www.dmv.ca.gov/forms/reg/reg488c.pdf>)
- Statement of Facts Form (<http://www.dmv.ca.gov/forms/reg/reg256.pdf>)
- Lemon Law Definition (http://www.lemonlawamerica.com/state_laws/california.htm)

WARRANTIES

There are several types of warranties which may arise during the dealer offer for sale of a motor vehicle. Two implied warranties exist, as specified by the uniform commercial code unless affirmatively disclaimed by the dealer.

These are:

Implied warranty of merchantability. This warrants the vehicle is fit for the ordinary purposes for which it was intended. It goes without saying that the vehicle complies with Division 12 (<http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm>).

If an after sale repair is made on for a NON -Division 12 item we suggest:



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

A small nominal fee (\$5.) for the repair and a warranty release signed with copy to the buyer to prevent further repairs and avoid an implied extension of the warranty from the 'goodwill' repair.

Implied warranty of fitness for a particular purpose. This warrants the vehicle is fit for a particular purpose, for instance, towing a boat.

Express warranties arise from oral or written agreements between the dealer and the buyer.

* Be careful what you & your staff say to your customers. Most dealers do not get themselves in trouble, their salespeople usually do that for them.

The dealer may include a warranty in the price of the vehicle by means of the Buyer's Guide. This type of inclusive warranty is taxable.

You must specify full or limited warranty, % of parts and labor you will pay, which systems are covered and for how long. See: Completed Buyers Guide (<http://www.ftc.gov/bcp/conline/pubs/buspubs/filledbg.pdf>)

Service agreements are required to fully and conspicuously disclose in simple and readily understood language the terms, conditions and exclusions of the contract. This type of warranty is not taxable.

The disclosure requirements are:

- name of the buyer
- description of the vehicle
- date of commencement & duration
- parts covered
- steps to obtain warranty service
- right to cancel provision, if any.
- dispute resolution procedures available.
- dealer statement of who has the legal & financial obligation to perform the warranty service & of what he will and will not do in the event of a problem.

See Related Links:

- Division 12 - Equipment of Vehicles (<http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm>)

- Completed Buyers Guide (<http://www.ftc.gov/bcp/conline/pubs/buspubs/filledbg.pdf>)

- Better Business Bureau Used CAR Warranties (<https://www.ovstudio.com/renewonlinenow.com/study.php?>)



Did you know?

The buyers guide is a federal requirement for all vehicles sold at retail by a licensed dealer. The dealer may offer a warranty or may offer the vehicle as-is. The warranty is negotiable at the point of sale and a modified buyers guide may be created following negotiation. There is a \$ 10,000. fine for each vehicle offered for sale without a posted buyers guide. Remember, an implied warranty of Division 12, the minimum safety standard applies to all vehicles sold at retail and this requirement cannot be waived. The dealer is to list all known defects on the buyers guide as well as the warranty, if any, offered with the sale of the vehicle. The buyers guide must have a contact name with phone number suggested. The buyer must receive a copy of this guide before any sale proceeds. The only item which would proceed the buyers guide signing would be a statement of facts disclosure of prior history or known defect.

FEDERAL BUYER'S GUIDE

The requirements for the used car buyers guide as specified in section 455 of the US code of regulations. They are:

This form is signed by the buyer only before sale.

A buyers guide must be posted by the dealer on the side window of every vehicle displayed for sale with both sides visible. The label may be removed temporarily for a test drive but must be re-affixed after the test drive is complete.

The dealer shall have the buyer's signatures.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

The original or a copy of the buyer's guide, including all terms and required disclosures, shall be presented to the buyer prior to presentation of the sales contract of a used vehicle sale. This document should be used to identify ALL known defects in writing.

If you disclose it, you do not have to fix it, excluding Division 12 items.

See Related Links:

- Division 12 - Equipment of Vehicles (<http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm>)
- Completed Buyers Guide (<http://www.ftc.gov/bcp/conline/pubs/buspubs/filledbg.pdf>)



Did you know?

The buyers guide is a federal requirement for all vehicles sold at retail by a licensed dealer. The dealer may offer a warranty or may offer the vehicle as-is. The warranty is negotiable at the point of sale and a modified buyers guide may be created following negotiation. There is a \$ 10,000. fine for each vehicle offered for sale without a posted buyers guide. Remember, an implied warranty of Division 12, the minimum safety standard applies to all vehicles sold at retail and this requirement cannot be waived. If a vehicle does not meet Division 12 it may only be sold at wholesale with a disclosure in writing given to the buying dealer. No buyers guide is required for wholesale transactions. See Statement of Facts form regarding disclosures.

USE OF SPECIAL PLATES

The use of dealer plates is appropriate when :

- used by the licensed dealer for any purpose
- used by an individual in the dealer household for pickup & dropoff
- used to operate any vehicle in the dealer's inventory for demonstration
 - with letter of authorization, unaccompanied up to seven days or
 - with a licensed salesperson and no letter
- used for a special event by any individual w/ letter of authorization
- used by any employee of the dealer for dealer related functions.
- used by an employee transferring between dealer sales locations.
- used by a **licensed** salesperson for demonstration purposes only.

- *no additional use unless vehicle is leased or rented to him / her.
- used by a family member as long as the licensee is present in vehicle.

The personal use of a dealer plate creates tax liability. The rates of tax are based upon the purchase price and they are:

- 1 / 40th per month for dealer personal use.
- 1 / 60th per month for salesperson personal use.

All vehicles should be placed in inventory using a release of liability form placing the dealer as buyer on the date of acquisition.

All vehicles in inventory operated on the public streets, regardless of registration tag expiration date, shall have a dealer plate affixed.

All dealer principals may pull a trailer using a dealer plate.

*See Tax Guide below for additional information (<http://www.dmv.ca.gov/forms/ol/ol257.pdf>).

The use of dealer plates is not appropriate when :

- used by an employee doing personal business.
- used for work and service vehicles.
- used by a family member without the licensee present in the vehicle
- unless for pickup and dropoff as described above.
- see DMV Memo on Dealer Plate Use (http://www.dmv.ca.gov/vehindustry/ol/im_4_00.htm)



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

The dealer plate shall be displayed on the rear of the vehicle and over the original plates, if a vehicle has been previously registered.

The registration card for the dealer plate shall be with the vehicle bearing the dealer plate. We suggest you tape a reduced size copy of your dealer license & registration card to each dealer plate. See [Form to Replace a Lost/ Stolen or Missing Dealer Plate](http://www.dmv.ca.gov/forms/ol/ol247.pdf) (<http://www.dmv.ca.gov/forms/ol/ol247.pdf>)

If a dealer plate becomes lost or stolen, it is the dealer's responsibility to immediately notify the local police and report a lost or stolen plate.

Notify Occupational Licensing of theft and need for replacement. Use [DMV form OL 247](http://www.dmv.ca.gov/forms/ol/ol247.pdf) (<http://www.dmv.ca.gov/forms/ol/ol247.pdf>).

Replacement Plate: \$ 15.

Replacement Reg Card \$ 7.

See Related Links:

- [DMV Memo on Dealer Plate Use](http://www.dmv.ca.gov/vehindustry/ol/im_4_00.htm) (http://www.dmv.ca.gov/vehindustry/ol/im_4_00.htm)
- [CCR Regulations](http://ccr.oal.ca.gov/cgi-bin/om_isapi.dll?clientID=470985&E22=title%) (http://ccr.oal.ca.gov/cgi-bin/om_isapi.dll?clientID=470985&E22=title%)
- [Board of Equalization regulations](http://www.boe.ca.gov/pdf/pub34.pdf) (<http://www.boe.ca.gov/pdf/pub34.pdf>)
- [Form to Replace a Lost/ Stolen or Missing Dealer Plate](http://www.dmv.ca.gov/forms/ol/ol247.pdf) (<http://www.dmv.ca.gov/forms/ol/ol247.pdf>)

ADVERTISING

Advertising refers to any act, statement, or announcement intentionally communicated to the public by whatever means, orally, in writing or otherwise.

Unlawful Acts

11713. No holder of any license issued under this Article shall do any of the following:

(a) Make or disseminate, or cause to be made or disseminated, before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate, or cause to be so disseminated, any statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) (1) (A) Advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time of the advertisement or offer. However, a dealer who has been issued an autobroker's endorsement to his or her dealer's license may advertise his or her service of arranging or negotiating the purchase of a new motor vehicle from a franchised new motor vehicle dealer and may specify the line-makes and models of those new vehicles. Autobrokering service advertisements may not advertise the price or payment terms of any vehicle and shall disclose that the advertiser is an autobroker or auto buying service, and shall clearly and conspicuously state the following: "All new cars arranged for sale are subject to price and availability from the selling franchised new car dealer."

(B) As to printed advertisements, the disclosure statement required by subparagraph (A) shall be printed in not less than 10-point bold type size and shall be textually segregated from the other portions of the printed advertisement.

(2) Notwithstanding subparagraph (A), classified advertisements for autobrokering services that measure two column inches or less are exempt from the disclosure statement in subparagraph (A) pertaining to price and availability.

(3) Radio advertisements of a duration of less than 11 seconds that do not reference specific line-makes or models of motor vehicles are exempt from the disclosure statement required in subparagraph (A).

(c) Fail, within 48 hours, in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) Advertise or represent a vehicle as a new vehicle if the vehicle is a used vehicle.

(e) Engage in the business for which the licensee is licensed without having in force and effect a bond as required by this article.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

- (f) Engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.
- (g) Include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.
- (h) Employ any person as a salesperson who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as required by Section 11812, or willfully fail to notify the department by mail within 10 days of the employment or termination of employment of a salesperson.
- (i) Deliver, following the sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000). This subdivision does not apply to the sale of a leased vehicle to the lessee if the lessee is in possession of the vehicle immediately prior to the time of the sale and the vehicle is registered in this state.
- (j) Use, or permit the use of, the special plates assigned to him or her for any purpose other than as permitted by Section 11715.
- (k) Advertise or otherwise represent, or knowingly allow to be advertised or represented on behalf of, or at the place of business of, the licenseholder that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle. The terms "no downpayment," "zero down delivers," or similar terms shall not be advertised unless the vehicle will be sold to any qualified purchaser without a prior payment of any kind or trade-in.
- (l) Participate in the sale of a vehicle required to be reported to the Department of Motor Vehicles under Section 5900 or 5901 without making the return and payment of the full sales tax due and required by Section 6451 of the Revenue and Taxation Code.
- (m) Permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the purchase or sale of vehicles required to be registered under this code, or permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, whether or not the licensee has any financial or equitable interest or investment in the vehicles purchased or sold by, or the business of, or branch location used by, the other person.
- (n) Violate any provision of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.
- (o) Sell a previously unregistered vehicle without disclosing in writing to the purchaser the date on which any manufacturer's or distributor's warranty commenced.
- (p) Accept a purchase deposit relative to the sale of a vehicle, unless the vehicle is present at the premises of the dealer or available to the dealer directly from the manufacturer or distributor of the vehicle at the time the dealer accepts the deposit. Purchase deposits accepted by an autobroker when brokering a retail sale shall be governed by Sections 11736 and 11737.
- (q) Consign for sale to another dealer a new vehicle.
- (r) Display a vehicle for sale at a location other than an established place of business authorized by the department for that dealer or display a new motor vehicle at the business premises of another dealer registered as an autobroker. This subdivision does not apply to the display of a vehicle pursuant to subdivision (b) of Section 11709 or the demonstration of the qualities of a motor vehicle by way of a test drive.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

(s) Use a picture in connection with any advertisement of the price of a specific vehicle or class of vehicles, unless the picture is of the year, make and model being offered for sale. The picture shall not depict a vehicle with optional equipment or a design not actually offered at the advertised price.

(t) Advertise a vehicle for sale that was used by the selling licensee in its business as a demonstrator, executive vehicle, service vehicle, rental, loaner, or lease vehicle, unless the advertisement clearly and conspicuously discloses the previous use made by that licensee of the vehicle. An advertisement shall not describe any of those vehicles as "new."

Disclosure requirements

A dealer must disclose the availability of all advertised vehicles. They must be on the lot, on a test drive, in for repairs or sold.

A dealer must disclose any prior history of the vehicle in the ad, such as rental, salvage, prior law enforcement use, etc. Any website or internet advertisement must follow the above listed guidelines.

See Related Links to DMV Regulations for Dealer Advertising:

- [Vehicle Code - Unlawful Acts](http://www.dmv.ca.gov/pubs/vctop/d05/vc11713.htm) (<http://www.dmv.ca.gov/pubs/vctop/d05/vc11713.htm>)
- [Vehicle Code - Additional Unlawful Acts: Dealers](http://www.dmv.ca.gov/pubs/vctop/d05/vc11713_1.htm) (http://www.dmv.ca.gov/pubs/vctop/d05/vc11713_1.htm)
- [Vehicle Code - Vehicle Sales: Unlawful Advertising](http://www.dmv.ca.gov/pubs/vctop/d05/vc11713_16.htm) (http://www.dmv.ca.gov/pubs/vctop/d05/vc11713_16.htm)
- [Occupational Licensing - Industry Memorandum \(IM\) 2-03](http://www.dmv.ca.gov/vehindustry/ol/im_2_03.htm) (http://www.dmv.ca.gov/vehindustry/ol/im_2_03.htm)

STOLEN VEHICLE PREVENTION

A thorough verification of indicia prior to purchase is the safest way to prevent the acquisition of a stolen vehicle. A dealer should:

- Always get all bills of sale to show clear transfer of the vehicle.
- Question sellers with duplicate title and/ or no title.
- Compare vin, plate & registration and verify all match.
- Verify the id of any seller by means of a photo copy,
- Contact local police or local CHP for a vin check, if concerned about questionable title.

UNLAWFUL DEALER ACTIVITIES

A dealer's license is a privilege and should be treated with great care. Failure to obey the regulations are grounds for suspension and / or revocation of the license. Some activities that have gotten others in trouble are:

- It is illegal for a dealer to issue a bad check to DMV.
* Late payment with involve an ASF, a bad check could revoke your license.
- It is illegal for a dealer to fail to transfer title to the DMV.
- It is illegal to possess any dealer plates without a license.
- It is illegal to allow anyone to use these plates as a dealer.
* Lending and / or borrowing is strictly prohibited.
- It is illegal for a dealer to allow sales from unlicensed locations.
- It is illegal for a dealer to lend or allow anyone to use dealer reports of sale.
- It is illegal for a dealer to fail to make payment of administrative service fees.
- **It is illegal for a dealer to fail to notify DMV, within 10 days, regarding the hiring or firing of any licensed salespersons.**
* **The cvc definition includes all managers and finance personnel.**
- It is illegal for a dealer to employ unlicensed sales employees.
- Commissions to unlicensed salesman, known as bird-dog fees, are illegal.
- Bait & switch practices, advertising at a low price, disparaging that product and switching to a higher priced product are prohibited.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Unlawful Acts: Dealers

11713.1. It is a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

Advertise any specific vehicle for sale without identifying the vehicle by its model, model-year, and either its license number or that portion of the vehicle identification number that distinguishes the vehicle from all other vehicles of the same make, model, and model-year. Model-year is not required to be advertised for current model-year vehicles. Year models are no longer current when ensuing year models are available for purchase at retail in California. Any advertisement that offers for sale a class of new vehicles in a dealer's inventory, consisting of five or more vehicles, that are all of the same make, model, and model-year is not required to include in the advertisement the vehicle identification numbers or license numbers of those vehicles.

(b) Advertise the total price of a vehicle without including all costs to the purchaser at time of sale, except taxes, vehicle registration fees, the California tire fee, as defined in Section 42885 of the Public Resources Code, emission testing fees not exceeding fifty dollars (\$50), actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, finance charges, and any dealer document preparation charge. The dealer document preparation charge shall not exceed forty-five dollars (\$45).

(c) (1) Exclude from an advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, and any dealer document preparation charge.

(2) The obligations imposed by paragraph (1) shall be satisfied by adding to the advertisement a statement containing no abbreviations and that is worded in substantially the following form: "Plus government fees and taxes, any finance charges, any dealer document preparation charge, and any emission testing charge."

(3) For purposes of paragraph (1), "advertisement" means any advertisement in a newspaper, magazine, or direct mail publication () 2 that is two or more columns in width or one column in width and more than seven inches in length, or on any Web page of a dealer's Web site that displays the price of a vehicle offered for sale on the Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document preparation charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to any person at the advertised total price, exclusive of taxes, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of any certificate of compliance or noncompliance pursuant to any statute, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer document preparation charge, which charges shall not exceed forty-five dollars (\$45) for the document preparation charge and not to exceed fifty dollars (\$50) for emission testing plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed. Advertised vehicles shall be sold at or below the advertised total price, with statutorily permitted exclusions, regardless of whether the purchaser has knowledge of the advertised total price.

(f) (1) Advertise for sale, sell, or purchase for resale any new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to any transaction involving any of the following:

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification as defined in Section 38012.



(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

(G) A commercial vehicle with a gross vehicle weight rating of more than 10,000 pounds.

(H) A vehicle purchased for export and exported outside the territorial limits of the United States without being registered with the department.

(g) Sell a park trailer, as specified in Section 18009.3 of the Health and Safety Code, without disclosing in writing to the purchaser that a park trailer is required to be moved by a transporter or a licensed manufacturer or dealer under a permit issued by the Department of Transportation or a local authority with respect to highways under their respective jurisdictions.

(h) Advertise free merchandise, gifts, or services provided by a dealer contingent on the purchase of a vehicle. The term "free" includes merchandise or services offered for sale at a price less than the seller's cost of the merchandise or services.

(i) Advertise vehicles, and related goods or services, at a specified dealer price, with the intent not to supply reasonably expectable demand, unless the advertisement discloses the number of vehicles in stock at the advertised price. In addition, whether or not there are sufficient vehicles in stock to supply a reasonably expectable demand, when phrases such as "starting at," "from," "beginning as low as," or words of similar import are used in reference to an advertised price, the advertisement shall disclose the number of vehicles available at that advertised price.

For purposes of this subdivision, in any newspaper advertisement for a vehicle that is two model-years old or newer, the actual phrase that states the number of vehicles in stock at the advertised price shall be (1) printed in a type size that is at least equal to one-quarter of the type size, and in the same style and color of type, used for the advertised price, however, in no case shall the phrase be printed in less than 8-point type size, and (2) be disclosed immediately above, below, or beside the advertised price without any intervening words, pictures, marks, or symbols.

The disclosure required by this subdivision is in addition to any other disclosure required by this code or any regulation regarding identifying vehicles advertised for sale.

(j) Use the term "rebate" or similar words such as "cash back" in advertising the sale of a vehicle unless the rebate is expressed in a specific dollar amount and is in fact a rebate offered by the vehicle manufacturer or distributor directly to the retail purchaser of the vehicle or to the assignee of the retail purchaser.

(k) Require a person to pay a higher price for a vehicle and related goods or services for receiving advertised credit terms than the cash price the same person would have to pay to purchase the same vehicle and related goods or services. For the purpose of this subdivision, "cash price" has the meaning as defined in subdivision (e) of Section 2981 of the Civil Code.

(l) Advertise a guaranteed trade-in allowance.

(m) Misrepresent the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) (1) Use the terms "invoice," "dealer's invoice," "wholesale price," or similar terms that refer to a dealer's cost for a vehicle in an advertisement for the sale of a vehicle or advertise that the selling price of a vehicle is above, below, or at either of the following:

(A) The manufacturer's or distributor's invoice price to a dealer.

(B) A dealer's cost.

(2) This subdivision does not apply to either of the following:

(A) Any communication occurring during face-to-face negotiations for the purchase of a specific vehicle if the prospective purchaser initiates a discussion of the vehicle's invoice price or the dealer's cost for that vehicle.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

(B) Any communication between a dealer and a prospective commercial purchaser that is not disseminated to the general public. For purposes of this subparagraph, a "commercial purchaser" means a dealer, lessor, lessor-retailer, manufacturer, remanufacturer, distributor, financial institution, governmental entity, or person who purchases 10 or more vehicles during a year.

(o) Violate any law prohibiting bait and switch advertising, including, but not limited to, the guides against bait advertising set forth in Part 238 (commencing with Section 238) of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1988.

(p) Make any untrue or misleading statement indicating that a vehicle is equipped with all the factory installed optional equipment the manufacturer offers, including, but not limited to, a false statement that a vehicle is "fully factory equipped."

(q) Affix on any new vehicle a supplemental price sticker containing a price that represents the dealer's asking price which exceeds the manufacturer's suggested retail price unless all of the following occur:

(1) The supplemental sticker clearly and conspicuously discloses in the largest print appearing on the sticker, other than the print size used for the dealer's name, that the supplemental sticker price is the dealer's asking price, or words of similar import, and that it is not the manufacturer's suggested retail price.

(2) The supplemental sticker clearly and conspicuously discloses the manufacturer's suggested retail price. (3) The supplemental sticker lists each item which is not included in the manufacturer's suggested retail price, and discloses the additional price of each item. If the supplemental sticker price is greater than the sum of the manufacturer's suggested retail price and the price of the items added by the dealer, then the supplemental sticker price shall set forth that difference and describe it as "added mark-up."

(r) Advertise any underselling claim, such as "we have the lowest prices" or "we will beat any dealer's price," unless the dealer has conducted a recent survey showing that the dealer sells its vehicles at lower prices than any other licensee in its trade area and maintains records to adequately substantiate the claims. The substantiating records shall be made available to the department upon request.

(s) Advertise any incentive offered by the manufacturer or distributor if the dealer is required to contribute to the cost of the incentive as a condition of participating in the incentive program, unless the dealer discloses in a clear and conspicuous manner that dealer participation may affect consumer cost.

For purposes of this subdivision, "incentive" means anything of value offered to induce people to purchase a vehicle, including, but not limited to, discounts, savings claims, rebates, below-market finance rates, and free merchandise or services.

(t) Display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations.

(u) Fail to disclose in writing to the franchisor of a new motor vehicle dealer the name of the purchaser, date of sale, and the vehicle identification number of each new motor vehicle sold of the line-make of that franchisor, or intentionally submit to that franchisor a false name for the purchaser or false date for the date of sale.

(v) Enter into a contract for the retail sale of a motor vehicle unless the contract clearly and conspicuously discloses whether the vehicle is being sold as a new vehicle or a used vehicle, as defined in this code.

(w) Use a simulated check, as defined in subdivision (a) of Section 22433 of the Business and Professions Code, in an advertisement for the sale or lease of a vehicle.

(x) Fail to disclose, in a clear and conspicuous manner in at least 10-point bold type on the face of any contract for the retail sale of a new motor vehicle that this transaction is, or is not, subject to a fee received by an autobroker from the selling new motor vehicle dealer, and the name of the autobroker, if applicable.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

(y) As used in this section, the terms "make" and "model" have the same meaning as is provided in Section 565.3 of Title 49 of the Code of Federal Regulations.

See Related Links to DMV Regulations for Unlawful Activity:

- [Vehicle Code - Unlawful Activities](http://www.dmv.ca.gov/pubs/vctop/d05/vc11614_1.htm) (http://www.dmv.ca.gov/pubs/vctop/d05/vc11614_1.htm)
- [Vehicle Code - Unlawful Acts](http://www.dmv.ca.gov/pubs/vctop/d05/vc11614.htm) (http://www.dmv.ca.gov/pubs/vctop/d05/vc11614.htm)
- [Vehicle Code Appendix B](http://www.dmv.ca.gov/pubs/vctop/lov/lovd5.htm) (http://www.dmv.ca.gov/pubs/vctop/lov/lovd5.htm)
- [California Vehicle Code Index - D](http://www.dmv.ca.gov/pubs/vctop/vc/vc_index_d.htm) (http://www.dmv.ca.gov/pubs/vctop/vc/vc_index_d.htm)
- [List of Violations of the Vehicle Code](http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm) (http://www.dmv.ca.gov/pubs/vctop/lov/lovd12.htm)



Did you know?

The dealership has an obligation to notify the DMV, the local inspector of jurisdiction, **within 10 days** of hiring or firing a licensed salesperson.

DMV ENFORCEMENT ACTIONS

All dealers are licensee's of the state and therefore are subject to actions at three levels of government. They are:

Administrative action by the DMV for any and all violations of applicable sections of the vehicle code, the civil code, the code of regulations and the business & professions code.

Civil tort & contract claims in state and federal courts at all levels. This includes Small claims court, Superior court and US district court.

Criminal investigation and arrest with prosecution in criminal courts by the district attorney, grand jury and the attorney general.

Failure to maintain adequate bond and / or meet the continuing education requirements can result in immediate DMV enforcement action to terminate a dealer's license.

Remember, to contact your Inspector whenever the need arises. You can locate your area DMV Inspector @ www.dmv.ca.gov

See Related Links to DMV Enforcement Codes:

- [Vehicle Code Appendix B - List of Violations of the Vehicle Code](http://www.dmv.ca.gov/pubs/vctop/lov/lovd5.htm) (http://www.dmv.ca.gov/pubs/vctop/lov/lovd5.htm)
- [California Vehicle Code Division 5 - Occupational Licensing](http://www.dmv.ca.gov/pubs/vctop/vc/tocd5c4a1.htm) (http://www.dmv.ca.gov/pubs/vctop/vc/tocd5c4a1.htm)

TAX GUIDE

Supplement to TriStar Dealer Education Handbook

As DMV course providers and licensed used vehicle dealers we felt an obligation to go beyond the minimum class requirements. There are State Board of Equalization regulations which go beyond the DMV requirements. Our purpose with this handbook is to assist you to learn and comply with all applicable regulations.

LEGAL DISCLAIMER

All Information Concerning Legal Issues Outlined In This Handbook Is Strictly Informational.

This Supplement Is Not Intended To Offer Legal Advice.

If You Have Specific Concerns Or A Legal Question Or If You Are In Doubt About A Specific Activity Or Transaction Consult :
The State Board of Equalization, 450 N Street, Post Office Box 942879
Sacramento, California, 94279



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Or Consult An Attorney.

Although We Attempt To Be As Accurate As Possible, We Make No Representations As To The Accuracy Of All Information Provided.

Record Keeping and Accounting

Sales and Use tax law requires you to keep adequate financial records.

You must be able to show :

Gross receipts, Taxable & Non-Taxable items, Deductions Claimed and the Purchase price of each item and vehicle purchased for purposes of resale.

You must have Records which include :

Normal accounting books & ledgers, with documents to support these books, such as bills, invoices, receipts, repair orders & sales contracts.

Tax returns, with schedules and working papers used in their preparation.

You should be aware that failure to maintain these records is evidence of negligence, and negligence is considered as intent to evade taxes which may result in substantial penalties.

A representative of the State Board of Equalization may examine all documents for verification of tax paid or to determine tax when no return is filed.

Special Circumstance Sales

You must be prepared to make tax adjustments in some situations.

License fees collected are not taxed, except when...

the fees collected exceed the amount required by the DMV, the excess is taxed.

a vehicle is accepted for trade and sold, the fees paid in advance are taxed.

* If the dealer pays these fees in advance, they are not taxed.

Accessories and labor, when performed before delivery to the buyer are taxed.

Document preparation charges are taxed.

Sales commissions paid from proceeds are not deducted from the taxable amount.

When financing & insurance are not itemized on the contract, the total is taxed.

Smog inspection fees are taxed, certificate fees are not taxed.

When a dealer allows an accommodation sale, where an employee or salesperson displays a personal car for sale, AND a conditional sales contract or DMV report of sale is used, the sale is taxed.

When a dealer conducts a consignment sale, the sale is taxed.

When a dealer sells to a member of the military, the sale is taxed unless :

The buyer has a valid military ID, out of state DL, and transfer orders placing him / her in California for military service.

When a dealer sells to a foreign diplomat, the sale is taxed unless :

The buyer produces an identification letter from the Office of Foreign Missions or a valid tax exemption card, issued by the US Dept. of State.

When a dealer sells to a US government agency or the American Red Cross the sale is not taxed.

When a dealer sells to a handicapped person, receiving special parking privileges per 22511.5 cvc, that portion attributed to modification is not taxed.

When a dealer sells a handicapped modified vehicle for public or private transport, that portion attributed to modification is not taxed.

When a dealer sells a company or demonstration vehicle, the sale is taxed.

When a dealer purchases a service or company vehicle, the sale is taxed.

Personal Use Circumstances

You must be prepared to make tax adjustments in some situations.

When a dealer purchases a vehicle for resale & holds in it inventory, using the vehicle solely for demonstration and display the purchase is not taxed.

When used for purposes other than demonstration and display, tax is due.

The amount of tax varies by use.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

When a dealer assigns such a vehicle to a licensed salesperson, for a period of less than 12 months, a monthly tax based on 1/60 of the purchase price is due.

When a dealer assigns such a vehicle to an employee or officer, for a period of less than 12 months, a monthly tax based on 1/40 of the purchase price is due.

When a dealer assigns such a vehicle to a licensed salesperson, employee or officer for a period beyond 12 months, the purchase price is taxed and a credit is given for any monthly tax previously paid.

When a dealer assigns a vehicle to anyone other than a licensed salesperson, employee or officer for any period of time, the purchase price is taxed.

* Weekend test drives without a letter of authorization are taxed.

When a dealer purchases parts & accessories for vehicles held in inventory, no tax is due, except paint, paint supplies, tools & equipment are taxed.

When a dealer makes a loan of a vehicle in inventory to a customer, awaiting delivery of a purchased vehicle or return of a repaired vehicle, for a period of less than 30 days, the fair market rental value is taxed, as long as display & demonstration precedes and follows such use.

If the loan is made and these conditions are not met, the purchase price is taxed.

When a dealer makes a loan of a vehicle in inventory to a driver training program the use of the vehicle in this situation is exempt from tax.

Local & District Sales & Use Taxes

When a dealer makes a sale where the buyer is registering the vehicle outside of the special district, the buyer is exempt from the local or district tax.

The dealer must obtain a declaration, signed by the buyer, under penalty of perjury, which shows the address of storage and registration for this exemption.

Trade - In Vehicles & Sales Discounting

When a dealer accepts a vehicle for trade - in, that value may not be deducted from the amount on which sales and use tax is charged.

There is no adjustment if that value is more or less than fair market value.

When the dealer allows a discount, the tax is computed on the sales price less the discount. The sales contract must clearly show the sales price & discount amount, the taxable amount and the sales tax collected.

When the dealer accepts a trade - in and allows a discount in the same transaction it must be clearly shown on the sales contract. If not, the entire amount is taxed.

Warranties

When a dealer makes a repair under an existing factory warranty, the parts furnished for the repair are to be considered included in the original sales price and not taxed.

When a dealer makes a repair under an optional service warranty, the parts furnished for the repair are to be taxed. When the customer is required to pay a portion of the parts, this amount is taxed.

When a dealer makes a sale involving an optional service warranty, that portion for the warranty is not subject to tax.

When a dealer makes a sale involving the transfer of an existing service warranty, that portion for the warranty is not subject to tax.



CALIFORNIA DMV APPROVED DEALER LICENSE RENEWAL STUDY GUIDE

Out of State & Foreign Sales

When a dealer makes an out -of - state sale it is exempt from tax as long as :

The title transfers to the purchaser outside of California.

The vehicle is out - of - state 90 days or >50% of 180 days after sale.

The dealer maintains out - of - state evidence of registration.

The dealer has documents which support out - of - state delivery.

* We suggest you collect tax and reimburse buyer to be safe.

When a dealer makes an out -of - country sale it is exempt from tax as long as :

The purchaser must obtain a DMV one way permit. The vehicle must be shipped or delivered outside the US within 30 days.

The dealer must retain evidence of out - of - country delivery.

If the dealer completes an exempt sale and these conditions are not met the purchase price is taxed.

Dealer Sales

When a dealer makes a sale to another dealer, for the purpose of resale, the sale is exempt from tax as long as the selling dealer maintains a copy of the buying dealer's Seller's permit.

When a dealer makes a sale to another dealer, for the purpose of service or company vehicle, the sale is taxed.

When a dealer makes a sale and fails to complete a DMV report of sale the sale is taxed, regardless if the buyer has paid tax to the DMV.

Please be diligent in your maintenance of records and payment of Sales & Use taxes.