



Selling Uninspected, Potentially Unsafe Vehicles

They must be advertised and sold as “Not Suitable for Transportation” to consumers

Recent consumer complaints prompt a reminder about selling vehicles that have not been confirmed by inspection, or another method, as meeting the minimum standards of the *Motor Vehicle Act*. Selling these vehicles to consumers can create liability for the dealership and may be a violation of the *Motor Dealer Act* and the *Motor Vehicle Act*.

Consumers expect, and may legally rely on, a vehicle displayed for sale by a dealer to be safe and in compliance with the *Motor Vehicle Act* – unless it is marked *Not Suitable for Transportation*. If a dealer sells a vehicle and does not disclose that it is unsafe or not in compliance with the *Motor Vehicle Act*, it may be considered a deceptive act under the *Business Practices and Consumer Protection Act*.

The *Motor Dealer Act Regulation* requires advertisements of such vehicles and the vehicle itself to be marked as *Not Suitable for Transportation*, and this must be indicated on all “written representations” about the vehicle, including the sales documents. It is a best practice to ensure the vehicle is towed off the lot.

Practices to be avoided include:

- Allowing a test drive on public streets if the vehicle is to be sold as *Not Suitable for Transportation*
- Counselling the buyer that they may get the vehicle licensed and insured despite selling it as *Not Suitable for Transportation*
- Advertising and selling vehicles as “mechanic’s specials” or “wholesale” rather than disclosing that they have not been inspected and therefore may be or are *Not Suitable for Transportation*

Ian Christman, Registrar of Motor Dealers, reminds dealers they “should not in any way aid, counsel or encourage a person to drive the vehicle from their dealer lot to have the vehicle licensed and insured.” As driving a vehicle that doesn’t meet minimum safety requirements is an offence under the *Motor Vehicle Act*, dealers may be liable in the case of an accident. The issue of public safety is taken very seriously, and Christman asserts that a “dealer that purposively or recklessly risks the safety of consumers and other drivers on the road places their dealer licence in jeopardy.”

Alternately, these vehicles can be sold to a true wholesaler, broker or repair business in a business-to-business transaction. However, it is illegal to sell a vehicle for use on the road unless it meets the minimum requirements of the *Motor Vehicle Act*, even business-to-business.

Annual Compensation Fund Fee Waived

Ian Christman, Registrar of Motor Dealers, has determined that the annual \$300 dealer contribution to the Motor Dealer Customer Compensation Fund can be waived for April 1, 2015 to March 31, 2016. Legislation requires that all new motor dealers make a minimum three-year contribution and are therefore not affected by the fee waiver.

Over the past three years, the annual Fund contribution has been waived in part due to the revised claim handling procedures for dealers still in business and a reduction in the overall number of claims. The total paid out in 2014 was \$135,187 and fund reserves were at \$1.04 million as of December 31, 2014.

An overview of the claim and decision history since April 1, 2009 is [available online](#). Individual [claim outcomes and summaries](#) are also available for the current and some past years. Future claim decisions will now be added on a continuous basis.

Motorcycle Advertising Guidelines

All vehicle dealers – car, RV, and motorcycle – need to follow the same advertising guidelines. The [VSA Advertising Guidelines](#) establish all the rules required to avoid compliance action. Concerning motorcycle advertising, all ads must include:

- The *total price* of the vehicle, with all fees preferably broken down and itemized
 - ◇ All documentation and extra dealer fees, as well as freight and PDI, need to be shown
 - ◇ Tax does not need to be shown
 - ◇ Stating “plus fees” does not meet the requirements
- Dealer name and dealer number

Additionally, the advertised price needs to be the same in all locations; otherwise, the lowest advertised price must be honoured.