

CLEAN AIR AFTER DRIVE CLEAN

We all have an investment in clean air. You would be hard pressed to find anyone who doesn't breathe!

With Drive Clean tests on vehicle sales now in dealers' rear view mirrors, it's important to remember that laws still exist to ensure that vehicles run cleanly and do not pollute the air we all rely on.

In fact, those laws have been with us since long before anyone had ever even heard of Drive Clean.

In Ontario, the primary law in this area is called the *Environmental Protection Act (EPA)*. And here is an important excerpt from it.

EPA

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e19_e.htm#BK56

22. (1) No person shall sell, or offer, expose or advertise for sale, a motor or motor vehicle that does not comply with the regulations.

Where system or device installed on motor vehicle

- (2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the discharge of any contaminant, no person shall sell, or offer, expose or advertise for sale, such motor or motor vehicle unless the motor or motor vehicle has such system or device so installed, attached or incorporated and such system or device, when the motor or motor vehicle is operating, complies with the regulations. R.S.O. 1990, c. E.19, s. 22 (1, 2).

The EPA ensures that the vehicles you offer for sale, like those operating on the road, are burning clean and all pollution controls are present and functioning as the manufacturer intended.

Dealers are reminded that it is illegal to even offer a vehicle for sale if pollution control equipment originally installed by the manufacturer is not present and functioning in the vehicle.

Officers from the Ministry of Environment will inspect dealer vehicles from time-to-time to ensure that these measures are followed. Consumers who buy vehicles with such equipment missing or not functioning will have legal rights against dealers who sell them. Regulators will enforce these laws, as will the courts.

Even though Drive Clean is a closed chapter on sales and leases, dealers still need to be vigilant about clean vehicles for their sake as well as the sake of the environment.

For that reason, and to prevent possible customer concerns if a vehicle purchased later fails an emissions test, the UCDA recommends that when selling a vehicle, members inform customers of the date and results of the vehicle's last emissions test.

In addition to asking vehicle owners for this information, it can also be found by entering the VIN at:

http://www.driveclean.ene.gov.on.ca/ONPublicWeb/pages/vir/vehSearch.jsf?LOCALE=en_CA

Most of the time, the last test result will be a "Pass", which may help assure the customer that the vehicle is operating properly.

There is no charge for this search.

Anti-Spam?

Canada's Anti-Spam Legislation came into effect in the summer of 2014 in the midst of much fear and loathing on the part of business.

Businesses, including dealers, were nervous about the effect this might have on their ability to market and what exposure and liability it might lead to.

However, save for some high profile enforcement measures we reported on, for the most part dealers have fared well over the last 3 years.

Hopefully, it's because dealers understand and follow the guidelines and we'd like to think that's due to our efforts, at least to some degree!

CASL, more formally known as the *Electronic Commerce Protection Act*, came into effect on July 1, 2014 and gave Canada some of the toughest laws in the world controlling commercial electronic messaging by text, email or social media.

ANY electronic message sent for a commercial purpose (this includes offers or coupons, alerts to a business opportunity or sales) MUST have the express or implied consent of the recipient. This applies to *business to business* communication as well as *business to consumer*.

New Developments

In our continuing effort to keep you informed, we want to point out a new milestone CASL is about to reach on **July 1, 2017**.

On that date, a new private right of action will be born. Private or class actions can be brought by individuals or groups against spam creators and their officers and directors alleging breaches of certain provisions of CASL. Monetary penalties as high as \$1,000,000 per day could be imposed, although that would be highly unusual.

Having said that, litigation, particularly class actions, can be expensive, so it is prudent to review your practices and compliance.

For more information, a dealer-focused Preparedness Guide has been designed http://www.ucda.org/dealerinfo/pdf_files/antispampreparednessguide.pdf

This document is used with the kind permission of SCI MarketView, NortonRose and Canadian Auto Dealer. There is more information on all of this available from SCI at <http://scimarketview.ca/casl-compliance-toolkit/> or call 888.919.8084.

The CRTC, which is tasked with enforcing the new law, also has a useful website with more information at <http://www.crtc.gc.ca/eng/casl-lcap.htm>

Plate Denial Reasons Growing

Members will be all too familiar with the difficulty closing a deal when arriving at a licence office to buy plates, or to renew or transfer existing plates, only to find that your customer owes money to Hwy 407ETR for tolls, parking tickets or red light camera violations. The fines have to be paid before the plate can be renewed or new plates can be issued.

As of May 1st, these instances will increase as the Province grants municipalities the right to include, among the categories for plate denial, driving-based offences such as speeding and careless driving fines.

Individuals who owe unpaid *Highway Traffic Act* driving fines going back 7 years will not be able to renew an existing plate or validate a new plate without paying the amount owing at the Service Ontario licence office

The new rules will not apply to vehicles which are registered to a company or jointly-owned.

Given that almost \$500 million dollars in fines are owing over the last 7 years for these driving-based offences, dealers might expect to run into this more often. Some of the unpaid fines may run into the thousands of dollars.

Members would be wise to ask customers purchasing a vehicle about any unpaid fines they may owe and make them aware that unpaid fines will affect their ability to purchase a vehicle.

Ontario Accessibility Laws

Dealers, like all businesses in Ontario are subject to a growing number of regulatory requirements many of which involve filing reports with the government. The Accessibility Directorate of Ontario (a branch of the Ministry of Economic Development and Growth) has asked us to make members aware of a filing deadline that will affect mid-size and larger members.

If your business has 20 or more employees you are required to file a 2017 Accessibility Compliance Report by December 31, 2017.

The compliance report is a series of "Yes" or "No" questions. You can download an accessibility compliance reporting form at www.ontario.ca/AccessibilityReport

If you have any questions you can contact the Accessibility for Ontarians with Disabilities Act (AODA) Help Desk at:

Email: accessibility@ontario.ca
Toll-free: 1-866-515-2025
TTY: 416-325-3408 / 1-800-268-7095

For a complete list of requirements visit www.ontario.ca/accessibility.

Annual General Meeting

The UCDA Annual General Meeting will be held on Thursday, June 8, 2017 at 4:00 p.m at the Fairfield Inn & Suites 3299 Caroga Drive, Mississauga.

The Agenda will include a review of the Association's activities and finances, election of directors and appointment of auditors for 2017.

OMVIC's Stubborn Curber

A Stittville man, who OMVIC described as a "stubborn curbsider", has been convicted of curbsiding and fined \$40,000. Even after warnings by OMVIC, he kept selling vehicles.

Soidan Ismail faced 29 curbsiding charges and an additional 30 charges for making false representations regarding the history and condition of vehicles sold. He misrepresented selling prices to evade tax and hid accident repairs.

Ismail was convicted on 19 charges and fined \$40,000.

He collaborated with two other individuals – Mark Richards of Gloucester and Thomas Murray of Russell - advertising vehicles on Kijiji. They were each charged with one count of curbsiding. Both pled guilty. Murray was fined \$5,000 and Richards was fined \$7,500.

QST And Recreational Vehicles

One of our members bought a motorcycle at Adesa Auction in Montreal and was charged Quebec Sales Tax (QST). He did not understand why and neither did we, so we looked into it.

Apparently, in Quebec, a motorcycle is not considered a "motor vehicle" for tax purposes and might be better described as a recreational vehicle like an ATV or snow machine.

Adesa has confirmed that they have to charge QST on motorcycles, as they are considered to be recreational vehicles. Ontario dealers can claim the QST back using the form located here:

http://www.revenuquebec.ca/en/sepf/formulaires/vd/vd-60_r.aspx

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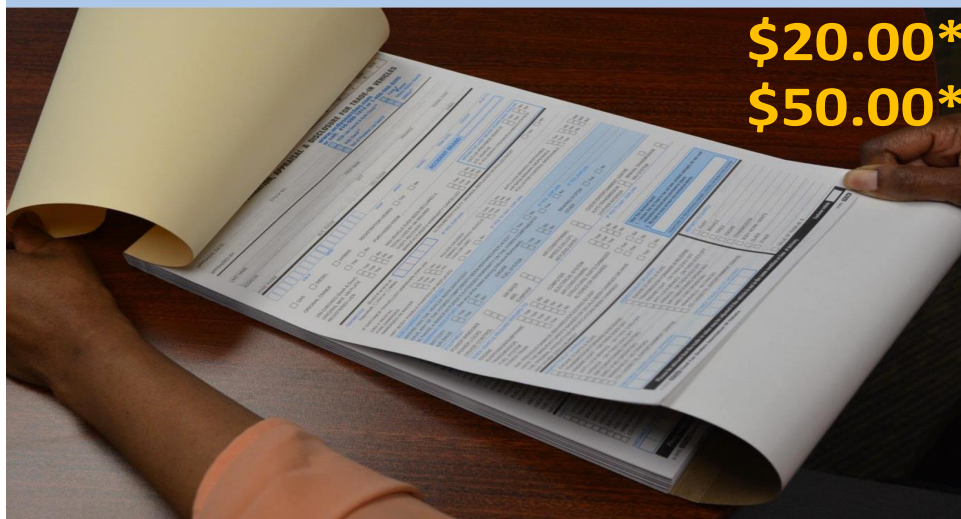


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Continuing Success For The 2016 NAPA Rebate Program

Once again UCDA's NAPA program has proven itself to be a lucrative Member Service returning almost \$1.5 million to members.

The UCDA and NAPA have worked hard to bring members a true loyalty program that rewards members for showing their dedication to NAPA. We're very optimistic that 2017 will be even more rewarding to members.

To become part of the program contact the UCDA today!



- 1 L to R: Jeff Young and John Wood, Youngs' Automotive
- 2 L to R: Steve Wilson and Alan Fiddler, Bargin Tire
- 3 L to R: John Holmes, NAPA and Brett Loughlin, Loughlin's Motors
- 4 L to R: Keith Bonnah NAPA Rep, Port Colborne Store & David Buist, Dave's Auto Service
- 5 L to R: Danny Bastone, NAPA & Antonio Sciscente and Gino Sciscente, Lakeshore Garage
- 6 L to R: Luciano Galloro, Rick DiBiase, N & R Garage and Danny Bastone, NAPA
- 7 L to R: Jason Britton and Kevin Ropp, Northfield Auto