

# ontariocars.ca

## Now's the time to list your cars!

Over 45,000 UCDA member vehicles are already listed for sale at [Ontariocars.ca](http://Ontariocars.ca), thanks to the more than 800 members that have signed up since December.

Ontariocars, like other new sites, begs "the chicken or the egg" question. Consumers won't come to Ontariocars unless there are "a lot of vehicles" and dealers won't put their cars on "unless their vehicles get hits from the public".

### Digital Marketing Campaign

We've now started an aggressive digital marketing campaign across Ontario. We can't emphasize enough: To get the benefits of this campaign, your cars need to be on the site!

We are working with digital marketing firm, Index, to improve the visibility of the new platform. The campaign includes advertising on Google in both Search and Image Based Display and on Facebook.

The Display Ads are both "discovery" ads; targeted at people who have recently expressed interest in purchasing a vehicle, and "remarketing" ads aimed at people who have visited the site, so our ads will follow them online and make it easy to return to Ontariocars.

### It's Free To Upload Your Vehicles

There is no charge to list your vehicles until the end of February. You will only pay for the vehicles added to the site starting on March 1st.

Once a vehicle is on the site, you'll never pay for it again, no matter how long you leave it there. You will never pay

twice to advertise a vehicle - just because it didn't sell last month.

After the FREE period ends, you pay only once per vehicle to have more vehicles listed on the site for as long as you need them to be there.

Ontariocars' unique pricing **WILL also** save you money after the **FREE** period is over. You will not find prices this low at any other site!

Here's how pricing will work when vehicles are listed in March:

- 1 to 49 just \$8 per vehicle
- 50 to 99 just \$7 per vehicle
- 100 plus just \$6 per vehicle

Example:

- You put 50 vehicles up on the site now at no charge.
- You sell 25 cars in March and replace each of them at \$8 each, you pay \$200.
- You sell 30 cars in April and replace each of them at \$8 each, you pay \$240.
- You sell all 50 cars in May and replace each of them at \$7 each, you pay \$350

Log in with your member account and password at [ucdashsearches.com](http://ucdashsearches.com), then click on [Ontariocars.ca](http://Ontariocars.ca), fill in the profile and hit SUBMIT.

Need help? Call the UCDA at 416-231-2600 or 1-800-268-2598.

**Ontariocars.ca ... sign up today!**

### Exporting ... Not All Bills Of Lading Are Created Equal

Among the many potential pitfalls involved in selling vehicles for export, and not collecting HST in the process, is a commonly misunderstood document called a "bill of lading".

A bill of lading is your proof (ultimately for Canada Revenue Agency) that the vehicle in question was "loaded" on a boat (usually) to ship overseas.

Not all bills of lading are as useful as others. A document calling itself a bill of lading that is issued by a shipper in Mississauga is not going to help you prove a vehicle was loaded on a ship in Halifax, Montreal or Vancouver, for example.

A useful bill of lading would be one that is issued when the vehicle is loaded on the actual vessel for shipment overseas.

We recently took a call from a member who did not collect and remit HST in reliance on a "bill of lading" issued here in the GTA. He later discovered the vehicle never actually left the country.

When he called the shipper to complain, he was told it was not their problem the owner decided to pull the vehicle out of their compound and keep it here as his personal driving vehicle.

The dealer now has to send the HST to the Feds and chase the customer for the tax.

The best advice is to always charge HST, unless the shipper is acting on your behalf, not on behalf of the purchaser. If the shipper's client is the purchaser, you have no control over whether the vehicle will actually leave Canada. Without proof that it did, you could be on the hook for the HST, if CRA performs an audit.

### Discipline ... OMVIC's First Loss

In an OMVIC Discipline Panel Decision in 2017, the Panel levied a costs award against OMVIC for late disclosure of evidence to be used in the hearing and finally ruled against OMVIC on a question of evidence.

Basically, OMVIC was trying to make a case against a dealer for improper price advertising. OMVIC alleged that ads had been run online suggesting a price, but that the subject vehicles had actually been sold for advertised prices with fees added, in violation of the all-in price requirements of the *Motor Vehicle Dealers Act* Regulations.

There was a hotly contested hearing with both sides well represented by legal counsel. One early skirmish arose because of what the dealer asserted was late disclosure by OMVIC.

All courts and quasi-courts, like the Discipline Panel, operate under rules that govern aspects of their process, such as the obligation to provide the other side with timely production of documents they will need before the hearing.

The dealer alleged that OMVIC had produced documents 8 days before the hearing and witness statements 4 days before the hearing; far later than the required 15 days' notice, and that this prejudiced them in their defence.

While the Panel eventually allowed OMVIC to use the late documents, they were ordered to pay the dealer \$1,500 in costs to compensate for the extra time this forced the Dealer (and its lawyers) to devote to the new information. OMVIC had been unable to show the Panel any real reason why the late disclosure had been necessary or unavoidable.

When the hearing resumed, after a month-long delay due to the admission of the new OMVIC information, OMVIC was unable to establish that the ads they complained of ever actually appeared on the internet.

OMVIC is the prosecutor in these cases and bears the burden of proving its case against the dealer. Since OMVIC was unable to do so here, the Panel ruled in favour of the dealer.

OMVIC's loss in this case actually helps to establish the fairness of the process. If OMVIC never loses, then it might appear that the process is not legitimate. The Panel, made up of dealers and other appointees, showed here that they are capable of delivering a just and unbiased result ... in other words, that they can be impartial.

<https://tinyurl.com/y828u26f>.

### ORST ... A Blast from the Past

Members should have received a notice from the Ontario Ministry of Finance about remittance of Ontario Retail Sales Tax (ORST) on the sale of insurance products, such as life and disability insurance sometimes purchased through dealers by customers when financing a vehicle. These products are taxed at 8%.

The Ministry is concerned that some dealers are remitting the ORST to Canada Revenue Agency (CRA) when selling this insurance, instead of remitting it to the Ontario Ministry.

The advice to dealers who sell these insurance products and who have not been remitting ORST is to:

1. Register with the Ministry of Finance and obtain an ORST vendor account, if you do not currently have one. Call the Ministry at 1-866-668-8297, and at the prompt say "retail sales tax", at the next prompt say "agent", you will then be connected with a live assistant.

Or, you can obtain the Application for Vendor Permit at: <https://tinyurl.com/ycws7vh8>.

2. Go back 4 years and make voluntary disclosure to the Ministry of any amounts collected but remitted to CRA in error, disclosure forms can be obtained from the Ministry.
3. Submit any applicable payments with the disclosure report to the Ministry.
4. Contact CRA at 1-800-959-5525 to discuss claiming back any amounts incorrectly remitted to them or to amend a previously filed HST return at:

<https://tinyurl.com/yccv9zto>.

Please call us if you have any questions.

## Drive Clean Growing Pains Continue

On April 1st, 2017 Drive Clean effectively ended for dealers.

Or did it?

As of December, over 8 months since the need for dealers to Etest light duty and passenger vehicles (under 4500 kgs) to register plates on sale or lease was eliminated by the Province, some licence offices are still requiring dealers to provide an Etest.

Compounding the difficulty, the temporary fix put in place between the MTO and Service Ontario, involving communication by licence offices with a telephone "hotline" where an override can supposedly be obtained, is not working effectively.

We continue to try to help with individual cases as they arise and through our contacts are able to obtain these overrides, but the much awaited system-wide fix continues to elude us.

While we continue to ask Service Ontario and MTO to ensure that licence offices are up to speed with Provincial law in this area, we ask any dealers encountering problems to please call our legal department and ask for Jim Hamilton at 416-231-2600 or 1-800-268-2598 or [j.hamilton@ucda.org](mailto:j.hamilton@ucda.org).

## Compliance Quiz

Here's this month's compliance quiz ... the answers are on page 4. Good Luck!

1. A Bill of lading is an important document when selling a vehicle for export, what is this document?
  - (a) it is the bill of sale, when the buyer is not in Canada
  - (b) a receipt issued by the shipper once the vehicle is given to them
  - (c) a proof of ownership
  - (d) a proof of shipment
  - (e) a warranty of fitness

2. Dealer plates cannot be bolted on the back of a car or truck.

**True or False?**

3. How many different classes of dealer are recognized by OMVIC?
  - (a) Two, used and new
  - (b) Four
  - (c) Three
  - (d) Six
  - (e) Seven

4. A broker cannot own a vehicle they are involved in selling or buying.

**True or False?**

5. Even if a former insurance total loss (an insurance write-off) vehicle is not "branded" as "salvage" or "irreparable" it must still be declared, in writing, as a "total loss" when sold.

**True or False?**

## LIEN SEARCHES

### Volume Discounts

Auto Check ... \$8.00

Carfax ... \$18.00 • Owner History ... \$16.00

[www.ucdasearches.com](http://www.ucdasearches.com) • 1-800-668-8265

## What Comes First?

Care to guess what the number one cause of friction between dealers and consumers is?

Deposits.

Bar none.

For years it has been the main reason consumers call us to complain about their buying experience. Deposits, and the disputes that arise, cause dealers no end of grief after holding a vehicle off-market for days or weeks for someone who ultimately “changes their mind” or, even worse, decides to buy somewhere else!

Having said that, one recurring mistake we see dealers make happens at the very start of the transaction ... taking a deposit before a bill of sale is signed.

Without having signed a binding contract, a consumer can take the position that they have not agreed to purchase the vehicle and can demand a full refund of any deposit left at any time.

It doesn't matter if the dealer, believing there was a deal, sunk money into a safety, reconditioning or other repairs or modifications, after taking the deposit, even if they were done at the request of the customer. A verbal commitment to purchase a vehicle, quite simply, is not a commitment at all and cannot be enforced.

Our advice to any dealer without a bill of sale signed, is to refund the deposit if asked to ... full stop. While that may seem easier said than done after weeks of back and forth with a customer, it is the best advice in these circumstances, as without a contract, the dealer has no leg to stand on.

The best advice is never to take a deposit without signing a bill of sale. The *Motor Vehicle Dealers Act* says:

### ***Deposits given before contract made***

**38.** *If a customer ... gives a registered motor vehicle dealer a deposit ... before entering into a contract ... then requests the return of the deposit ... the dealer shall immediately return the deposit ...*

So what comes first: the bill of sale or the deposit?

**Answer:** The bill of sale ... always

Without a contract you have no legal protection. Don't leave yourself vulnerable. Take advantage of the safety net your bill of sale provides and get the contract signed before taking a deposit.

## Quiz Answers

1. **The answer is (d).** The bill of lading is proof, not just that the vehicle is in the possession of the shipper. It is legal proof that the vehicle has actually been loaded onto the ship, truck or train for transport.

2. **The answer is False.** The *Highway Traffic Act* (HTA) does not prohibit a dealer plate from being bolted or screwed onto a vehicle. The HTA states:

*A Dealer number plate or a Service number plate shall be attached to and exposed in a conspicuous position on the rear of the rear-most vehicle being towed or operated under the authority of the corresponding permit.*

3. **The answer is (e).** Here are the seven classes of dealer listed in the MVDA, 2002:

### *Classes of motor vehicle dealers*

**18. (1)** *The following classes and subclasses of motor vehicle dealers are established for the purpose of registration:*

**1.** *General dealer, consisting of the following subclasses:*

- i. New and used motor vehicles.*
- ii. Used motor vehicles.*

**2.** *Broker.*

**3.** *Wholesaler.*

**4.** *Exporter.*

**5.** *Outside Ontario dealer.*

**6.** *Lease finance dealer.*

**7.** *Fleet lessor.*

4. **The answer is True.** Brokers are prohibited from taking any ownership interest in vehicles which are being “brokered”.

### *Brokers*

**20. (1)** *A motor vehicle dealer registered as a broker shall not act as a motor vehicle dealer, other than,*  
*(a) to act on behalf of a customer who is not a registrant to facilitate a trade in a motor vehicle involving the customer as a party, where the broker has no property interest in the trade and where the broker does not take or handle the funds used to pay for the trade; or*  
*(b) to advertise with respect to the activity described in clause (a). O. Reg. 333/08, s. 20 (1).*

5. **The answer is True.** If a vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was branded irreparable or as salvage under the *Highway Traffic Act*, a statement to that effect must be made on the contract.