

DON'T TAKE SHORTCUTS WITH MVDA DISCLOSURE

It's been nine years since the current *Motor Vehicle Dealers Act* (MVDA) came into effect. It's still as important as ever that members ensure they are making the required mandatory disclosures required by the MVDA.

Accident damage, daily rentals, and out of province vehicles remain the most common mandatory disclosures from dealers to consumer buyers. Daily rental disclosure actually goes back to 1989 when the issue of disclosure was determined by the courts.

With the end of the "CarProof days" in the Canadian marketplace and the entry of Carfax Canada, we thought it would be a good idea to remind members that there are 18 other mandatory disclosures required by the MVDA.

Any past damage resulting in repairs that cost \$3,000 or more must be disclosed. This is the law and most members know this. It's made very clear in the MVDA regulations.

Some members still make the mistake of assuming that if the damage was less than \$3,000, disclosure of the past damage is not required. Not true.

The MVDA regulations contain a catch-all phrase, which is really a throw-back to what the law was under the old MVDA, which requires any material fact about a vehicle to be disclosed.

If a reasonable person would want to know about a past accident, even if it cost less than \$3,000 to repair, it should be disclosed. You need to use your best

judgement on this one, but better to err on the side of caution. Unless the past damage you're aware of was cosmetic and very minor, you're best to disclose it.

Here are some of the other damage-related disclosures that you need to be aware of.

Total Loss Vehicles:

- Branded irreparable, salvage, rebuilt. These vehicles have had serious structural damage.
- Declared a total loss by an insurance company, even if not branded. These vehicles were not "hit" hard enough to be branded, but were still written off.

2 or more adjacent body panels replaced on a vehicle

- When a vehicle has been damaged to any amount, with fenders or doors replaced. You need to look at the car for evidence of this type of repair.

Structural/suspension/sub frame parts

- You need to inspect for this type of repair especially if the vehicle has sustained a larger than average "hit".

This is not the complete list. The full list of these disclosures is detailed on UCDA appraisal forms and our wholesale bill of sale. It's not enough to just read a report you got online. You need to inspect the car and ask questions. Use of a "paint meter" is highly recommended.

Contact the UCDA for more information regarding the mandatory disclosure requirements in the MVDA.



Holiday Hours

All dealers must be closed on Christmas Day, Tuesday December 25 and New Year's Day, Tuesday January 1, unless their local municipality has passed a by-law, exempting retail businesses from the requirement to close on these statutory holidays. Very few municipalities will allow Christmas Day openings. Members should contact their local municipalities for more information if needed.

All dealers may be open on Boxing Day, Wednesday December 26, should they wish to be. However, members should remember that in all cases, staff must be given three days off with pay for Christmas, Boxing Day and New Year's Day, if not on those days, than on other agreed upon days.

Dealers do have some options when it comes to Boxing Day. For example, they may choose to be open on Wednesday,

December 26th and instead be closed on Monday, December 24th, giving staff an extra-long weekend.

Another option would be to open with partial staff on both December 24th and 26th, as long as all staff get paid days off for all three of the required holidays. Dealers can come up with different variants on this, as long as all staff end up, at some point, with three paid days off for Christmas, Boxing Day and New Year's Day.

The UCDA office will be closed from Monday, December 24th through Wednesday, December 26th and will be open regular hours for the remainder of that week. The office will also be closed on Tuesday, January 1st.

The UCDA search facility office will be open as indicated below:

	Search Office Hours	Internet Lien Search Hours
Saturday, December 22	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 8:00 p.m.
Monday, December 24	Closed	9:00 a.m. to 8:00 p.m.
Tuesday, December 25	Closed	9:00 a.m. to 8:00 p.m.
Wednesday, December 26	Closed	9:00 a.m. to 8:00 p.m.
Thursday, December 27	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.
Friday, December 28	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.
Saturday, December 29	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 8:00 p.m.
Monday, December 31	9:00 a.m. to 3:00 p.m.	9:00 a.m. to 8:00 p.m.
Tuesday, January 1	Closed	9:00 a.m. to 8:00 p.m.
Wednesday January 2	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.

Lien On Me

Leases and the need for a Lien

We first ran this article in 2007 when the law in Ontario changed to make it clear that to protect a lessor's interest in a leased vehicle, a lien needs to be registered. No longer can a dealer assume they are protected JUST because a vehicle is still registered in their name.

Many members who lease vehicles already know that using the UCDA's lien registration service is the best way to protect themselves from losing a vehicle if the lessee goes bankrupt.

Registering liens has always been very important for "lease to own", or "buy here pay here" dealers.

After August 1, 2007, changes to the law removed any doubt that a lien will need to be registered on any lease longer than 1 year, in order to protect the lessor.

Without a lien, a bankruptcy trustee could take the

vehicle... even if it's registered in the dealer's name. If the lease is for less than 1 year, the trustee could still keep the vehicle, if not satisfied that it was a "true lease".

We've always recommended that members register liens, if they lease vehicles. It's essential in order to be properly protected.

You can register liens on leases, financed vehicles, or for unpaid repairs on-line at www.lienregistration.ca

UCDA's Ontario Lien Registration fee is \$10.00 plus the Ministry's fee of \$8.00 for each year the lien is registered. Please feel free to call the UCDA for more information.

Tire and Parts Fraud

It's not a new scam (we've written about it before), but recent reports seem to suggest that the use of stolen credit card numbers to purchase auto parts and tires is on the rise once again.

The scam is simple; you receive a call or an email from someone wanting to purchase parts or tires. The scammer gives you a credit card number and says he'll send a courier, who is usually not aware of the scam, to pick the parts or tires up.

Later, the stolen card is identified and your merchant card account is debited. The identity of the thief is usually never discovered. The parts are gone and so is your money.

One way to minimize the risk where someone you're not familiar with wants to buy parts, tires, or anything else for that matter, is to require the credit card to be present before giving up possession of the items.

Require the purchaser to bring the card into your shop, for chip verified payment. Do not allow pickups without the card being present. Another is to deliver the parts yourself or to use a trusted delivery service to do so. Require the purchaser to produce the card to the deliverer for chip verification, prior to delivery being completed.

No card ... no delivery.

Charity

As we have in the past, UCDA Members have once again made a donation to Candlelighters Simcoe.

Serving Simcoe County and beyond (Barrie, Collingwood, Orillia, Bracebridge, Gravenhurst, Huntsville, Bradford, and as far east as Keswick), Candlelighters assists families who have a child with a diagnosis of cancer. They support the family in a variety of meaningful ways throughout the difficult journey back to health.

Founded 25 years ago by a parent of a child in cancer treatment, the group was originally created as a monthly support group.

They have since expanded to include programs and support for each member of the family. Programs include monthly parent support groups, art therapy for children, teen groups, school support programs and social events for the entire family at different times throughout the year.

Following the initial cancer diagnosis, Candlelighters deliver a care package to families and they have recently created an emergency relief fund.

Families with a child in treatment are also assisted during the Holiday season. Our donation will support Candlelighters' activities throughout the year and provide a much needed injection of cash for their annual holiday hamper initiative for families in need.

Compliance Quiz

1. True or False? In Ontario any dealer registered as a "general dealer" may sell brand new vehicles.

2. A dealer is approaching the expiry date for its registration and applies to OMVIC for renewal, files the form and pays the fee. The expiry date comes and passes without word from OMVIC. Is the dealer out of business?
 - (a) Yes, because the dealer left it too close to the deadline
 - (b) If OMVIC took the renewal fee that means the licence is renewed
 - (c) OMVIC's silence means it won't approve the renewal
 - (d) No news is good news ... so silence = approved renewal
 - (e) No, the dealer's registration is deemed to continue

3. A broker puts a deal together for a consumer and a new vehicle dealer. He brings the car from the dealer to the consumer to complete the deal. This is illegal.

True or False?

4. Wholesale dealers can **sell** only to other registered dealers. Can wholesalers **buy** from anyone other than a dealer?

Q. Yes or No?

5. OMVIC's Registrar is required by law to make certain information about dealer and salesperson registrants available to the public. Which of the following information can OMVIC **NOT** share?
 - (a) Legal names of registrants
 - (b) Classes and subclasses of registrants
 - (c) The home address of dealer owners and salespeople
 - (d) Business address and phone number
 - (e) Names of registrants whose registration has been revoked or suspended

OMVIC Discipline Decision

Try to avoid a sequel

It's bad enough for any dealer to be brought before OMVIC's Discipline Panel, but to have it happen twice for a similar infraction is hard to take.

And expensive!

This recent decision cost the dealer \$8,000, an amount they agreed to pay when it was revealed the dealer ran 8 ads that OMVIC said were misleading and not inclusive of fees in advertised prices.

Adding to OMVIC's concern was that they had levelled a similar process against the dealer in 2013.

In addition to the fine, the dealer's staff will have to review OMVIC's advertising webinar online and the dealer must offer all current and future sales staff the opportunity to take the education course at the dealer's expense.

<https://tinyurl.com/y6wvzqes>

Certification Course Classes

UCDA trainers are teaching 7 OMVIC certification classes in the first two months of 2019, including one in London.

Thursday, January 10

Thursday, January 24 – London (location to be determined)

Tuesday, January 29

Thursday, January 31

Tuesday, February 5

Monday, February 25

Wednesday, February 27

Aside from the London date, all classes will be held at Wye Management's training facility, 55 Wings Road, Unit 1, in Woodbridge.

Wye Management – Basic Sales Techniques Class

Two Wye Management Basic Sales Training courses have been scheduled, as well. Students taking an in-class Certification course receive a discounted rate for the sales training course. These courses are also taught at Wye Management's training facility.

Friday, January 11th

Monday, February 4th

Contact Michelle at m.prince@ucda.org, or Val, at v.maclean@ucda.org for more information or to register.

Renewing Your Membership on Time

You have probably received an e-mail, a phone call or a visit from one of our representatives about your UCDA membership renewal at some point! That's because in order for us to continue to provide quality services, timely renewal is more important than signing up a new member.

Most members rely on at least one of our services, such as on-line advertising, legal and help lines, insurance, auto parts, vehicle searches and forms to name a few. Membership and Member Services go hand in hand and to continue using the services, we depend on your timely renewal each year.

With everything else you've got to deal with in running your dealership, it's easy to put your UCDA renewal notice aside and then forget about it. That's why we ask that when you receive your renewal please act on it quickly.

Quiz Answers

1. The answer is "False". There are two sub-classes of general dealers:

1. Used vehicle dealer; and
2. New and used vehicle dealer.

Only general dealers who fall under sub-class #2 may legally sell or lease a new vehicle.

2. The answer is "e". The *Motor Vehicle Dealers Act* says that if, before the expiry of a registrant's registration, the registrant has applied for renewal and paid the required fee, the registration is deemed to continue,

- (a) Until the renewal is granted; or
- (b) Until the registrar gives the registrant written notice of refusal to renew.

3. The answer is "True".

Brokers are not allowed to take possession of motor vehicles that are part of a sale or lease that the broker is putting together. They broker a deal, but cannot take any part in the specifics of the transaction, including delivery.

4. The answer is "Yes". There is a long list of "exempt" persons who do not need to be registered under the MVDA from whom a wholesaler can purchase vehicles, including the Crown, auto wreckers, bankruptcy trustees and lawyers in the course of their duties, to name just a few.

5. The answer is "c". Home addresses are rightly considered to be personal information and may not be shared by OMVIC with third parties without the consent of the registrant.