



Get a waiver signed re: "one clear day" in dealer's possession

Until such time as legislation governing the industry and consumer transactions can be streamlined and modernized, the VSA is warning dealers to ensure that simple steps are taken to avoid problems. For example, Section 31 (3) of the Motor Dealer Act Regulation states:

"Subject to a waiver under subsection 6, after the motor dealer and the consumer enter into the lease (lease disclosure requirements are contained in Section 100, 101 and 102 of the Business Practices and Consumer Protection Act), the motor vehicle leased to the consumer must remain in the possession of the motor dealer for a period of one clear day."

Subsection 6 of the same statute states that the consumer may waive this requirement in writing and the VSA suggests that space needs to now be provided on all printed contracts for these waivers.

Section 30 also states that the aforementioned details must be disclosed in writing to the consumer.

Also, please note that references to the "Trade Practices Act" in standard contracts are invalid and need updating. The following reference is found in many standard lease contracts still in use today

"It is an offence under The British Columbia Trade Practices Act to misrepresent the terms of a motor vehicle lease as being a price benefit or advantage over direct purchase of the vehicle with conventional financing if such is not the case."

The Trade Practices Act is no longer in force, replaced by the Business Practices and Consumer Protection Act. There is no similar requirement in the new statute, but the noted reference has in part been replaced with Section 4(3)(vi) of the Business Practices and Consumer Protection Act which states a representation by a supplier of goods:

"that uses exaggeration, innuendo or ambiguity about a material fact or that fails to state a material fact, if the effect is misleading".

Ambiguous disclosure questionnaire

During recent hearings and dealer inspections, it has been noted that a standard sales agreement used by many dealers is confusing, often with double negatives and a "true or false" boxes to check off, a particular challenge for both dealers and consumers without optimal comprehension of written English.

Section 21 (2) and 23 Motor Dealer Act - Regulation lists the required declarations that a motor dealer must make in every sales or purchase agreement (including a lease). On that sales or purchase agreement these declarations should be in the form of a question to which the dealer is required to answer "yes" or "no" and should be expanded in some areas to meet the requirements of the Business Practices and Consumer Protection Act:

Dealer Declarations on the Purchased Motor Vehicle as declared to the best of the motor dealer's knowledge and belief:

1. Does the motor vehicle comply with the requirements of the motor vehicle Act? **Yes or No.**
2. Is the motor vehicle suitable for transportation? **Yes or No.**
3. Has the motor vehicle been used as: (a) a taxi? **Yes or No**; (b) a police vehicle? **Yes or No**; (c) an emergency vehicle? **Yes or No.**
4. Has the motor vehicle been used in organized racing? **Yes or No.**

Continued P. 2. . . .

Ambiguous disclosure questionnaire (continued)

- 5 Has the motor vehicle been used as a lease vehicle? **Yes or No**; A rental vehicle? **Yes or No**
- 6 Has the motor vehicle been brought into the Province of BC specifically for the purpose of resale? **Yes or No**; If yes in what jurisdiction(s) has the motor vehicle been previously registered?

- 7 Has the motor vehicle sustained damages requiring repairs costing more than \$2,000.00? **Yes or No**.
If **yes**, how much? _____
- 8 Has the motor vehicle been rebuilt? **Yes or No**. (Rebuilt means the motor vehicle was reported as a total loss by an insurance company or other agency and subsequently rebuilt and certified road worthy for use in BC).
- 9 Does the odometer of the motor vehicle accurately record the true distance travelled by the motor vehicle? **Yes or No** If No, why not? _____

With respect to question "7 and 8", section 4 of the Business Practices and Consumer Protection Act, here again there is the statement that a supplier of goods must not make a representation using

"...exaggeration, innuendo or ambiguity about a material fact or that fails to state a material fact, if the effect is misleading".

The VSA would again like to thank the many licensed dealers and salespeople who continually make sure that their vehicle sales activities comply with the laws of British Columbia. As your licensing authority, the VSA continues to work towards the industry's vision of "a respected motor vehicle sales industry servicing an informed and confident public".