



American Association of  
Motor Vehicle Administrators

records DEALERS  
REGULATION  
wholesale  
FRAUD *licensing*  
transactions



# Wholesale Vehicle Dealer Licensing Whitepaper



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VEHICLE STANDING COMMITTEE  
INTERNET VEHICLE SALES WORKING GROUP

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# Contents

**Chapter One Overview** ..... 2

**Chapter Two Typical License Requirements** ..... 3

**Chapter Three Challenges Some Jurisdictions Have Reported** ..... 4

**Chapter Four Examples of Licensing Violations** ..... 6

**Chapter Five Possible Solutions to Challenges** ..... 8

**Chapter Six Summary** ..... 9

*Contact Information* ..... 10

## Chapter One Overview

Over the last few years AAMVA member jurisdictions have discussed challenges related to the licensing and regulation of wholesale vehicle dealers. Some of the challenges identified were the sale of vehicles beyond the restrictions of the license, the sale or the use of wholesale dealer licenses by private entities via the internet to individuals located in other jurisdictions, and the increased difficulty in locating transaction records, as well as the potential for increased title and odometer fraud.

This whitepaper, developed by the AAMVA Internet Vehicle Sales Working Group, summarizes these challenges and provides an overview of steps some jurisdictions have taken to overcome these concerns. The intent of this paper is to provide information and to discuss some of the challenges jurisdictions have identified related to wholesale dealer licenses. It does not endorse or condemn a wholesale dealer license program.

Some jurisdictions issue licenses specifically to wholesale dealers, while other jurisdictions do not specifically issue a wholesale dealer license. However, a review of the laws of several jurisdictions that do license wholesale dealers reveal that, while the

definition of a wholesale dealer license may vary slightly, there are many similarities. All of the definitions reviewed begin with the basic premise that a person selling vehicles to dealers must be licensed by the jurisdiction, a wholesale dealer can only sell used vehicles and only to licensed dealers, and cannot engage in the retail sale of vehicles to the general public. In most jurisdictions, the laws allow wholesale dealers to purchase vehicles from anyone and also permits the sale of vehicles to licensed dealers in other jurisdictions.

Many jurisdictions require the wholesale dealer to have a physical presence within the jurisdiction where records are kept and can be examined, but do not require a vehicle display area. In some cases, the jurisdiction acknowledges this may encourage several wholesale dealers to co-locate, and therefore, they restrict the number of wholesale dealers in one physical location.

Once jurisdictional law defines wholesale dealers and the transactions they are allowed to conduct, the laws, rules, and policies further define the jurisdiction's license application process and licensing requirements.

## Chapter Two Typical License Requirements

The Internet Vehicle Sales Working Group reviewed the wholesale dealer license requirements in several jurisdictions and summarized them below.

**SURETY BOND:** All of the jurisdictional laws reviewed require wholesale dealers to obtain a surety bond, however, the amount of the bond varies in each jurisdiction. Some jurisdictions graduate the amount of the bond based on the number of vehicles sold per year. In the jurisdictions reviewed, the bond amount ranges from \$10,000 to \$50,000.

**HOURS:** Many jurisdictions require business hours to be posted.

**SIGNAGE:** Many jurisdictions require signage at the established place of business. Some jurisdictions require signs to be of a particular size, contain the name as it appears on the license and any other name used to do business. Some jurisdictions require signs to include verbiage such as “sales restricted to wholesale or dealers only,” or “purchasers must be licensed dealers”.

**ESTABLISHED PLACE OF BUSINESS:** All jurisdictions reviewed require some type of established place of business in a physical location, such as an office or an office with a showroom. Some jurisdictions require a separate license for each established place of business/branch location.

**MULTIPLE DEALERS IN AN OFFICE:** Some jurisdictions require clear division, including signage

and display areas, when multiple dealers are located in one office, and also limit the number of wholesale dealers that can occupy a single location.

**DISPLAY AREA:** Vehicle display area requirements vary by jurisdiction. Some require a display area that must be adjacent to the sales office or inside the sales office, while other jurisdictions do not require wholesale dealers to have a display area.

**RECORDS & RETENTION:** All of the jurisdictions reviewed require some form of record retention for certain documents such as sales, purchase, and title documents, and also require a physical location where the required records are maintained. Some jurisdictions allow electronic storage of all records. The timeframes for wholesale dealers to produce required documents for inspection vary between jurisdictions.

**LICENSE DISPLAY:** Many jurisdictions require the occupational license of the wholesale dealer and any salesperson (if salespersons are required to be licensed in the jurisdiction) to be posted in the established place of business.

**SALES RESTRICTIONS:** Some jurisdictions restrict wholesaler dealers to the sale of only used vehicles. Some jurisdictions require a wholesale license only if the dealer sells more than five vehicles per year. Some jurisdictions require auction companies that conduct wholesale auctions to obtain a separate license as a wholesale auction dealer.

## Chapter Three

# Challenges Some Jurisdictions Have Reported

### Unlicensed Sales

The most common issue among jurisdictions that license wholesale dealers is unlicensed vehicle sales to retail customers. A number of jurisdictions have also experienced problems with licensed wholesale dealers from other jurisdictions purchasing vehicles at auctions and then selling them to retail purchasers. Unsuspecting customers who purchase vehicles from wholesale dealers may have their title transfers rejected. Jurisdictions presented with these transactions have to grapple with whether to allow the unauthorized transaction to proceed for the innocent purchaser or to send the customer back to the dealer to attempt to have the deal unwound. Customers who purchase directly from wholesale dealers may also have difficulty pursuing claims against a wholesale dealer if issues arise after the purchase of the vehicle. Whether the wholesale licensing state's bond laws apply may vary across jurisdictions. An affected customer may need to hire private counsel to seek legal recourse.

### Lending or Reselling Wholesale Licenses

“Lending” or “reselling” wholesale licenses occurs when a licensed wholesale dealer charges a fee to an unlicensed entity or individual to use their license to enter auctions and purchase vehicles. Few, if any jurisdictions have reciprocity agreements that allow licensed dealers to conduct dealer activity in a location other than the one that issued the license. Therefore, this practice often results in unlawful retail sales, curbstoning, and other unlicensed activity. Jurisdictions have seen title alterations, fictitious ownership reassignments, and odometer rollbacks in connection with these improper transactions. Improper retail transactions by wholesale dealers may

be further exacerbated by companies that offer to convert wholesale transaction paperwork to paperwork that can be used to sell the vehicle to a retail customer. Regardless of how the transaction occurs, failure to properly report retail transactions may result in the loss of accurate data, accurate vehicle history, and ownership records, as well as tax revenue for jurisdictions.

### Curbstoning

Jurisdictions also report that curbstoning is a concern with licensed wholesale dealers. Curbstoning is the unlawful sale of motor vehicles by unlicensed individuals or by licensed dealers who are operating away from their licensed premises or outside the restrictions of their license. Curbstoning often occurs on public roadsides, right of ways, and in parking lots of other businesses. Selling vehicles away from a licensed location often leads to misrepresentation of vehicles and offers little to no recourse for purchasers, as sellers are often unable to be located after the sale occurs. Sellers who are curbstoning vehicles may not own the vehicle or hold the valid title. Vehicles that are sold in this manner may be stolen, salvage, flood damaged, or be subject to odometer rollbacks or undisclosed liens.

### Dealer Licensing Assistance

Use of companies that provide assistance in obtaining dealer licenses in multiple jurisdictions is enticing because these companies offer the means to legitimately buy and sell vehicles nationwide. They may also offer additional services that make it easier for the individual seeking to obtain the license to focus strictly on buying and selling vehicles. In addition to

completing licensing applications on behalf of those seeking to obtain wholesale dealer licenses, these companies will also offer to take care of all physical requirements necessary to obtain and maintain the dealer license. They often offer to forward any correspondence received at the licensed location to the licensee's home or office free of charge.

## License Location Requirements

Failure to meet license location requirements is another problematic area experienced by jurisdictions

that license wholesale dealers. Wholesale dealers may co-locate with other businesses and fail to have proper signage for the dealer business. The failure to meet minimum premises requirements may be due to wholesale dealers contracting with nationwide companies that offer services with obtaining licenses in one or more jurisdictions. These companies may assist with licensing paperwork, but there may be little effort to educate newly licensed wholesale dealers on the requirements that must be met and maintained in the jurisdiction that issued the license.

Below are pictures provided for this whitepaper by investigators in Wisconsin and Missouri from cases that involve national companies obtaining licenses for wholesale dealers that are represented as having a physical presence at the location but are not actually conducting business from that location.



## Chapter Four Examples of Licensing Violations

Below are summaries of three cases provided by jurisdictional investigators.

### Case 1: X Auto Group – Selling at Retail

This case was initiated based on a complaint to an investigator in Jurisdiction A which indicated wholesale dealer X Auto Group licensed in Jurisdiction B sold a vehicle on the retail market in Jurisdiction B. The transaction was signed by C.S., as an agent for X Auto Group, and the sale date was shown as 2/22/2017 on the title. However, on the bill of sale from X Auto Group, the salesman was listed as J.W. The vehicle, a Cadillac Escalade, was sold for \$2500 “as is” and was paid in full on the date of sale. The signature on the bill of sale was again C.S.

The investigator visited the licensed location for X Auto Group and was unable to locate any sale files for the transaction in question. There is sufficient evidence to show a sale occurred on the retail market outside of the licensing jurisdiction, yet there are no records of the transaction in their dealer files.

### Case 2: X Auto Group – Selling at Retail

This case was initiated based on a complaint received by an investigator in Jurisdiction A from a citizen who purchased a vehicle through a retail sale from a man who was acting as an agent of X Auto Group, a licensed wholesale dealer in Jurisdiction B. The customer explained to the investigator she was concerned the vehicle she purchased, a 2004 Chrysler PT Cruiser, was not showing accurate mileage on the odometer. She stated that the vehicle was purchased in

a public parking lot in Jurisdiction C, after she learned of the vehicle from an internet site. The investigator worked with Jurisdiction C authorities regarding the possible odometer fraud. The investigator obtained copies of a bill of sale and the front and back of the title, which changed hands at the time of the sale. The bill of sale indicated the seller as X Auto Group and the purchaser as K.F. The salesman signature appears to be K.H. and the date of sale is Feb 10, 2018. The title shows X Auto Group as the seller with K.H. signing as agent and showing X Auto Group’s dealer number.

A compliance inspection of the files of X Auto Group revealed there were no files related to the sale of this vehicle. There were no files for any sales transactions occurring in January or February of 2018.

The investigator called and spoke with the owner of X Auto Group, C.S. C.S. confirmed that K.H. was a salesperson employed by her dealership, but stated she was unaware that she had sold a vehicle on the retail market. C.S. stated she was not familiar with the vehicle involved in this transaction or the customer K.F. C.S. was advised she needed to add copies of any paperwork from this transaction to their office files. She was informed that it was a violation of her license to sell vehicles retail, and she acknowledged that she was fully aware of that fact. C.S. told the investigator that she would take care of this situation but did not explain exactly how.

A man identifying himself as M.S., the husband of C.S., called the investigator and stated he was going to offer to refund the money to the purchaser and would not sell again on the retail market.

### **Case 3: X LLC – Wholesale Dealer not Maintaining Records and Selling at Retail**

This case was initiated based on a complaint from B.R., Office Manager for ABC Dealer Licensing, a licensed wholesale dealer in Jurisdiction A. She stated that X LLC, a company they assisted with obtaining a

wholesale dealer license, had sold a vehicle at retail to a customer in Jurisdiction B. She provided copies of the sales paperwork for the transaction. B.R. advised that XLLC rented office space from ABC Dealer Licensing, but had vacated the space and removed their files from the location.

## Chapter Five Possible Solutions to Challenges

Below are some potential solutions to the challenges described above for those jurisdictions issuing wholesale dealer licenses.

- Review regulations to ensure they address current business practices and models.
- Limit the number of wholesale dealers allowed in one physical location.
- Licensed wholesale dealers should be required to occupy their location and to be available at the location during their posted hours.
- Records of all transactions should be maintained at the location either in hard copy or electronic form.
- Dealer records should be required to be produced to officials within a specified timeframe.
- The reselling of wholesale dealer licenses should not be allowed.
- Wholesale dealers should not be authorized to obtain and issue temporary registrations and tags.
- Wholesale dealers should not be authorized to process title and registration transactions for retail sales.
- Business signs should be required to contain the name as it appears on the wholesale license and any other name used to do business, and signage should be required to include verbiage similar to “sales restricted to wholesale or dealers only,” or “purchasers must be licensed dealers.”
- Have sufficient, well trained investigators with enforcement authority to monitor wholesale dealer license activity.
- Educate consumers on the risks of buying vehicles online and out of jurisdiction, on how to file a complaint with jurisdictional officials, and how to refer suspected curbstoners to the appropriate authorities.
- Seek authority to tow curbstoned vehicles when discovered.
- Laws should include appropriate administrative actions, civil, or criminal penalties.
- Share information on cases of fraud with other jurisdictions to help prevent bad actors from moving to other jurisdictions and engaging in the same fraudulent activities.
- Inventory databases can support jurisdictional oversight. Requiring dealers to log their vehicle inventory and title reassignments into a database using a real-time process, allows regulators and taxation authorities to monitor and audit the movement of vehicles and other dealer activity.

## Chapter Six Summary

The Internet Vehicle Sales Working Group recognizes that the regulation and oversight of wholesale vehicle dealers and their sales activities present many challenges. It can be difficult to identify and locate wholesale

dealers and to resolve concerns. The information in this whitepaper is offered to assist jurisdictions that license wholesale dealers as they consider possible approaches to addressing the challenges they encounter.

# Contact Information

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