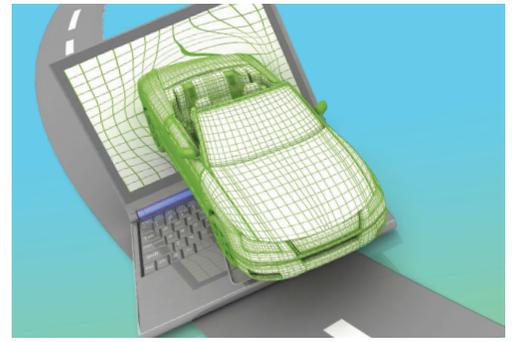




American Association of
Motor Vehicle Administrators

Internet ONLINE
OVERSIGHT
transactions
PURCHASE
consumers
technology



Best Practices for the Regulation of Internet Vehicle Sales



December 2019

VEHICLE STANDING COMMITTEE
INTERNET VEHICLE SALES WORKING GROUP

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Contents

- Chapter 1** **Introduction** 2
- Chapter 2** **Glossary of Terminology and Acronyms** 4
- Chapter 3** **Administration of Internet Vehicle Sales** 7
- Chapter 4** **Best Practices for Addressing Internet Vehicle Sales** 9
 - 4.1 *Licensed Vehicle Dealers* 9
 - 4.2 *Unlicensed Vehicle Dealers* 12
 - 4.3 *Private-Party Vehicle Sales* 15
 - 4.4 *Elements of a Vehicle Sale* 17
- Chapter 5** **Best Practices for Addressing Internet Advertising** 21
 - 5.1 *General Advertising Requirements* 21
 - 5.2 *Use of Social Media to Sell Vehicles* 23
 - 5.3 *Third-Party Advertisers* 24
 - 5.4 *Private Sales* 25
- Chapter 6** **Purchasing a Vehicle with New Technology** 28
- Chapter 7** **Conclusion** 29

- Appendices**
 - Appendix A* *Applicable Federal Laws* 30
 - Appendix B* *Resources for Jurisdictions* 31
 - Appendix C* *Sample Smart Buyer Guide* 32
 - Appendix D* *Available Investigative Tools and Resources* 36
 - Appendix E* *Survey Results* 37
 - Appendix F* *Working Group Roster* 40
 - Appendix G* *Working Group Charter* 41

Chapter One Introduction

Since the inception of the internet, consumers have continually become more aware of the ease of making online purchases, which has led society to push for the availability of more and more products online, and savvy businesses are only too happy to satisfy that desire. One of the areas that is seeing a marked increase in online transactions is the auto industry. Consumers are clamoring for the opportunity to purchase the vehicles of their choice online because it expands the options available and enables them to save a considerable amount of time and possibly money over traditional vehicle-buying methods. The internet offers a means for private sellers and licensed dealers to expand their market area. It also offers the ability for licensed motor vehicle dealers to better position themselves to meet consumer demands in an ever-changing and evolving environment.

As internet vehicle sales increase, jurisdictions grapple with the most effective approach to protect and educate consumers and auto industry members who use technology to buy and sell vehicles online. Although the internet may ease the buying process, expand the choices for buyers, and increase the market for sellers, the internet can also be a conduit for fraudulent activity. In many jurisdictions, the lack of laws and rules directly aimed at internet vehicle sales enables those intent on cheating others to more easily avoid government oversight and make money at the expense of the buying public.

As we enter the third decade of internet vehicle sales, the variety of options for purchasing and selling vehicles online continues to expand. Individual dealers, groups of dealers, and some manufacturers advertise, finance, hold virtual auctions, and sell vehicles online.

A wide variety of new vehicle sales business models are emerging, and even more are likely in the future.

Consumers are learning about new and used vehicles for sale through online searches and are armed with more knowledge when they walk into a dealership than ever before. Informed consumers know what they want for a vehicle, how much they want to pay for it, and how they are going to finance it. They are familiar with the different vehicle makes, models, and option packages. Because they have done this research, they expect an efficient transaction and expect to spend less time in the dealership. Consumers may not be aware that while they know which vehicle they want to buy, they may not be familiar with how the new technology in the vehicle works, and they should plan to spend some time at the dealership learning about it so they can safely drive the vehicle off the lot.

All of this has led to jurisdictions asking AAMVA to provide guidance to help them adapt to evolving online vehicle sales. It is for this reason that the AAMVA Internet Vehicle Sales Working Group was established to develop this document for a targeted audience—the agencies that administer and enforce dealer licensing.

The principles guiding the development of this document were:

- Facilitate a consistent and balanced approach to the oversight of internet vehicle sales transactions;
- Recognize the convenience technology provides to connect vehicle sellers and buyers;

- Identify and understand new and potential business models for selling and buying vehicles; and
- Support use of the internet to facilitate vehicle sales while taking steps to deter and detect fraudulent and criminal activities.

The working group was committed to providing guidance jurisdictions could use to protect and educate consumers, deter fraud, and identify bad actors while not disrupting current regulations and practices that are working well. As part of their research, they contacted and engaged stakeholders representing the dealer and auction industries, vehicle history service providers, third-party marketers, national trade associations, federal government agencies, and entities using emerging technologies targeting vehicle sales to ensure these entities had opportunities to provide information and feedback to the working group. In addition, the group conducted two jurisdictional surveys to help guide the focus of the group. A

summary of the survey results can be found in [Appendix E](#).

This best practice addresses the retail sale of vehicles advertised and sold online by licensed dealers and private parties. Topics related to vehicle sales but considered out of scope for this document include general dealer licensing requirements, general advertising requirements, wholesale dealer-to-dealer transactions, auction sales, and sales from manufacturers directly to consumers.

Wholesale licensing has been addressed by the working group in a separate whitepaper.

It should also be noted that the members of the working group did not have expertise in Canadian provincial or federal vehicle dealer licensing and advertising laws. Therefore, Canadian jurisdictional members may need to adjust some of the recommendations to ensure they are supported by current Canadian laws.

Chapter Two Glossary of Terminology and Acronyms

The intended use of the following terms: The following is an explanation of terminology used in this document. AAMVA is not necessarily recommending that jurisdictions adopt these terms for use in their statutes or administrative rules; they are provided to help readers understand their use in this document.

American Association of Motor Vehicle Administrators (AAMVA)	A nonprofit organization developing model programs in motor vehicle administration, law enforcement, and highway safety. The association also serves as an information clearinghouse in these areas and act as the international spokesman for these interests. AAMVA represents the state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws. www.aamva.org
Brand	“Branded title” or “title brand” means a notation, inscription, indicator, symbol, or phrase included on the vehicle title to indicate the history, condition, or circumstances of a vehicle.
Buyer	A purchaser, debtor, lessee, bailee, transferee, or any person buying, attempting to buy, or receiving a motor vehicle subject to a security interest, lease, bailment, or transfer agreement and their legal successors in interest.
Curbstoners	Licensed or unlicensed dealers who pose as private sellers to sell a vehicle. The term is also used to describe a private party who regularly engages in the business of selling or offering to sell vehicles that were not originally procured for personal use; such party does not have a vehicle dealer license.
Dealer activity	Engaging in the buying, selling, brokering, advertising, trading, or exchanging of vehicles either outright or by means of any conditional sale, bailment, lease, security interest, consignment, or otherwise. Displaying of new or used vehicles, equipment, trailers, or semitrailers for sale. Acting as any type of agent for the owner of a vehicle to sell the vehicle or acting as any type of agent for a person interested in buying a vehicle. Jurisdictions may have laws that exempt certain sellers from this definition.
Display area	Space at each business location established by a dealer used to display one or more vehicles of the type the dealer has been issued a certificate to sell.

Fusion centers	An intelligence-gathering, analysis, and dissemination center that is owned by state, local, or territorial law enforcement and Department of Homeland Security entities.
Internet sales	Some portion of the vehicle sale activity that relies on the internet as a communication medium for the transaction between the buyer and the seller that goes beyond mere advertising.
Licensed dealer	A person or business who holds a valid, current vehicle dealer license or certificate issued by a licensing agency in the jurisdiction where the person or business engages in dealer activity.
Licensed wholesale dealer	A licensed motor vehicle dealer that may buy, sell, or exchange vehicles with licensed dealers but may not sell or exchange vehicles at retail.
Owner	A person who either paid in full for a vehicle and has title to the vehicle or has possession of the vehicle under a retail installment contract.
Person	Every natural person, partnership, corporation, association, trust, estate, or other legal entity.
Place of business or business location	A location within a jurisdiction's boundaries that is identified and approved by the jurisdiction on a licensed dealer's most current dealer license or certificate, where dealer activity takes place.
Private seller	A vehicle owner or an individual who has legal ownership of a vehicle or a power of attorney to sell the vehicle on behalf of the legal owner. This does not include a licensed dealer selling vehicles owned by or in the inventory of their licensed dealership.
Sale	Agreement to transfer possession and ownership of a motor vehicle to a person.
Seller	A manufacturer, dealer, lessor, bailor, transferor with or without a security interest and any other person selling, attempting to sell, or delivering a motor vehicle and their legal successors in interest.
Social media	Forms of electronic communication (such as websites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other content (such as videos.)
Stock number	Unique identifying number for a vehicle in inventory for sale that can be used to reference vehicle records while the vehicle is in stock and after the sale of the vehicle.

Unlicensed vehicle dealer	A person or business who engages in dealer activity without holding a current, valid license or certificate from the appropriate licensing agency in the jurisdiction where the activity occurs. This also includes a licensed dealer acting outside the scope of their license or from an unlicensed location.
Uniform Resource Locator (URL)	The fundamental network identification for any resource connected to the internet. It includes the protocol (HTTP, FTP), the domain name (or IP address), and additional path information (folder or file). On the internet, a URL may address a webpage file, an image file, or any other file supported by the HTTP protocol.
Violation	Any action by a person or vehicle dealer prohibited by statutes, rules, or ordinances of the jurisdiction where activity occurs.
Websites	A group of World Wide Web pages usually containing hyperlinks to each other and made available online by an individual, company, educational institution, government, or organization. For purposes of this document, websites include social media.

Acronyms

For purposes of this report, the following acronyms are provided.

AAMVA	American Association of Motor Vehicle Administrators
DMV	Department of Motor Vehicles or a motor vehicle agency
FTC	Federal Trade Commission
IT	information technology
MCO	Manufacturer's Certificate of Origin
NHTSA	National Highway Transportation Safety Administration
NMVTIS	National Motor Vehicle Title Information System
UCC	Uniform Commercial Code
URL	Uniform Resource Locator
VIN	Vehicle Identification Number

Chapter Three Administration of Internet Vehicle Sales

Background

To successfully address the use of technology to buy and sell vehicles as described in Chapters 4 and 5, a collaborative approach should be taken among government and industry stakeholders. Approaching and addressing the issues with a team of stakeholders can help all of the interested parties gain a better understanding of the emerging issues such as the new methods for selling and buying vehicles, the business models that are being developed, and the need to educate and protect consumers and to combat fraud.

Approaching and addressing the issues with a team of stakeholders can help all of the interested parties gain a better understanding of the emerging issues.

Recommended Best Practices for Jurisdictions

3.1 The appropriate lead agency in a jurisdiction should identify stakeholders and establish a jurisdictional standing committee. The committee should include, but may not be limited to, representatives from the:

- agency with oversight of dealer licensing
- agency with oversight of vehicle registration and titling
- agency that investigates vehicle fraud
- department of revenue or agency with oversight of tax collection
- legislative branch

- prosecuting attorney's office
- attorney general's office
- consumer protection agency
- new car dealers' association
- independent car dealers' association
- office of information technology
- local government
- other stakeholders as appropriate

3.2 The committee should gain an understanding of the issues and recommendations discussed in this report and any issues that have emerged in the jurisdiction. After a comprehensive understanding has been achieved, the committee should determine if it wants to pursue implementing some or all of the recommendations in this report. The committee may also determine that there are additional considerations to address. The committee should develop an appropriate strategy for their jurisdiction to successfully proceed.

3.3 Jurisdictions should study and explore the potential for electronic odometer disclosure and electronic title systems outlined in the AAMVA report published by the E-Odometer Task Force in December 2014 and the AAMVA "Roadmap to Electronic Odometer Disclosure Guidance" document published in March 2018.

3.4 As new technologies and business models emerge, regulators, investigators, and legislators will need to continuously advance their knowledge and stay abreast of vehicle sales and fraud trends. This knowledge will

help officials recognize when laws, rules, and policies need to be revised or have become outdated.

Benefits of Implementing the Best Practices

Well-informed stakeholders, with an agreed upon strategic plan for addressing and maintaining government oversight of vehicle sales, will position the jurisdiction to better protect their citizens against fraud, prevent disadvantages to licensed dealers, and deter criminals from becoming established in their jurisdiction.



It provides a platform for cross-department collaboration to form partnerships and supportive relationships, align efforts and reduce duplication of efforts, improve investigations, and gain efficiencies in time, resources, and funding.

This is also an opportunity for jurisdictions to improve search engine results when consumers are looking for help with vehicle sales related to consumer protection issues.

Law Enforcement Considerations

3.5 Effective enforcement of the laws and regulations governing vehicle sales requires that jurisdictions

allocate sufficient resources with the necessary authority to investigate suspected violations.

3.6 The laws and regulations to be enforced should be unambiguous. Vehicle sales fraud cases should be supported by prosecutors because there have been many instances when vehicle sales cases have led to significant criminal activity.

3.7 Appropriate administrative actions, civil sanctions, and criminal penalties should be defined to deter future unlawful activity.

Risks of not Implementing the Best Practices

Outdated or inconsistent regulation of vehicle sales can provide the opportunity for unlawful or criminal activities, may create unfair disadvantages for licensed dealers, or may cause financial harm to individuals and businesses.

Challenges of Implementing the Best Practices

Staffing or funding resources will need to be identified to optimize the value of updating the government oversight of internet vehicle sales, to protect consumers, and to combat fraudulent or criminal activities.

Statutes may need to be updated, drafted, and codified, which requires the support of interested parties and must be shepherded through the legislative process.

Outdated or inconsistent regulation of vehicle sales can provide the opportunity for unlawful or criminal activities, may create unfair disadvantages for licensed dealers, or may cause financial harm to individuals and businesses.

Chapter Four Best Practices for Addressing Internet Vehicle Sales

4.1 Licensed Vehicle Dealers

Background

In 2017, there were more than 17 million new and more than 41 million used cars and light trucks sold in the United States. The majority of these vehicle sales involved a party that was some form of vehicle dealer, such as, but not limited to: (1) “brick and mortar” new or used retail dealers, (2) wholesale dealers, (3) auctions and wholesale auction dealers, (4) salvage dealers, (5) auto brokers, and (6) vehicle exporters. Vehicle dealer licensing requirements exist in US and Canadian jurisdictions and, to operate lawfully in these jurisdictions, a vehicle dealer must be licensed. This document focuses on the retail sale of vehicles.

Although a breakdown of the numbers isn’t available, certainly many vehicle sales are now initiated through internet advertising, or at least portions of the sales transactions themselves were conducted online. The increased internet sales activity by licensed dealers raises new questions for many jurisdictions such as: How can someone tell if an advertisement is from a dealer with a valid license? Is a dealer including online sales numbers in any required jurisdictional reporting? Is there a need to modify jurisdictional record retention requirements related to internet advertising or sales? Is there a need to track the electronic footprint of a licensed dealer’s internet advertising activity?

Many jurisdictions also currently require that licensed vehicle dealer sales occur at a licensed location where the dealer is required to maintain a physical area to display vehicles offered for sale. With the increase in demand for internet vehicle sales, many licensed



dealers no longer see a need for the business to display their vehicles for sale on a traditional sales lot and instead are moving to the practice of solely displaying and advertising their vehicles online.

Recommended Best Practices for Jurisdictions

4.1.1 Licensing agencies should maintain a current list of licensed dealers on their websites to assist the public in identifying dealers with a license in good standing or identifying a dealer whose license is currently or has been disciplined. Publication of a vehicle dealer’s valid license status on the jurisdiction’s website will benefit legitimate vehicle dealers because such listing will improve the dealer’s search engine results. A savvy vehicle dealer will be incentivized to fully comply with a jurisdiction’s law so the licensee can avoid being removed from such list because of having a restricted, expired, or revoked vehicle dealer license status. Many search engines rank companies based on the linkage to relevant websites, and a jurisdiction’s governmental website is a highly relevant connection.

4.1.2 Any jurisdictional minimum sales requirements should be applicable to and include internet vehicle sales. Online sales should be reported to the licensing jurisdiction where the sale takes place to be included in the total yearly sales conducted by the dealer. If a jurisdiction does not have a minimum sales requirement in effect, the jurisdiction should consider taking action to create such a law or regulation.

4.1.3 Consider laws that require a dealer engaged in the business of selling vehicles online to provide proof of the payoff of the vehicle to a potential buyer. Dealers should be required to furnish proof, to a buyer, that all prior liens or other financial encumbrances have been satisfied, and a certificate of title, a certificate of salvage, or the Manufacturer's Certificate Origin (MCO) will be provided to the consumer within a reasonable time upon completion of the sale. The law should include appropriate administrative actions, civil sanctions, or criminal penalties for noncompliance.

Jurisdictions may want to consider adjusting their current policies and regulations by allowing an exemption from the requirement of a physical vehicle display area to address vehicle dealers that only offer vehicles for sale on the internet.

4.1.4 Allow records to be preserved electronically, as permitted by law, so that they are easily accessible and retrievable at the dealer's licensed location. Electronic records should include, but not be limited to, a list of vehicles in inventory for sale, resale, or on consignment; vehicle purchases, sales, trades, and transfers of ownership; collection of taxes; titling, uninsured motor vehicle, and registration fees; odometer disclosure statements; records of permanent dealer registration plates assigned to the dealer, temporary transport plates, and temporary certificates of registration; proof of safety inspections performed on vehicles; and other records required

by the jurisdiction. All records should be maintained and backed up in accordance with the jurisdiction's retention laws.

4.1.5 Incorporate *bona fide* business in the jurisdiction requirements for dealer license applications when drafting rules and regulations.

Display Area Exemption

4.1.5 Jurisdictions may want to consider adjusting their current policies and regulations by allowing an exemption from the requirement of a physical vehicle display area to address vehicle dealers that only offer vehicles for sale on the internet. This allows these dealers to conduct business as a licensed dealer, from a location that is more conducive to their business model while still providing for consumer protection.

The jurisdiction may want to evaluate all regulations to determine if additional regulations can be adjusted to accommodate emerging internet sales business models. It is recommended to continue requiring these dealers to be licensed, have a physical principal place of business where customers are able to locate dealer staff and where regulators and enforcement officials can examine documentation and conduct audits. The jurisdiction's current dealer business office requirements should apply.

Such an exemption would not apply to "service center" requirements of jurisdictions or manufacturers required to satisfy vehicle warranty provisions or other manufacturer requirements.

Registration of URLs

4.1.6 Jurisdictions may also want to consider requiring dealers involved in internet advertising to provide and maintain their URL(s) and registered agent(s) to the jurisdiction. All dealer principals should have rights to the URL(s). Jurisdictions may consider listing on their website the URL of licensed dealers if available. Appropriate administrative actions, civil sanctions, and criminal penalties should be defined to

deter noncompliance and to protect the public against fraud and negligent acts of the site operator.

Law Enforcement Considerations

4.1.7 Investigative staff should be trained in computer applications, operations, and digital document retrieval procedures and laws. Audits and criminal investigations may involve computer forensics and computer analysis to obtain needed information. See [Appendix D](#) for available investigative tools and resources.

4.1.8 Authority should be given to investigators to properly examine digital documents, websites, and advertisements maintained and operated by the dealer. This is a different process than examining physical documents and vehicles displayed by a dealer.

4.1.9 If a jurisdiction requires dealers to register their URLs, investigative staff may be tasked with determining if business URLs are active and properly registered; therefore, they should be trained accordingly.

Benefits of Implementing the Best Practices

These recommendations retain safeguards and consumer protections already in place because no change is recommended to the traditional dealer licensing regulations.

Improving the identification of the number of sellers that fit within the vehicle dealer classification will allow for better oversight and improved consumer protection. Improving the data associated with the seller will also lead to improved system query tools that can be used by law enforcement and regulators when making decisions on applications of licensing laws or whether criminal charges are warranted.

By providing an exemption to display area requirements, dealers that only sell online are provided the opportunity to avoid the added expense of maintaining an unnecessary physical display area.

Risks of Not Implementing the Best Practices

Additional burdens may be placed on businesses because current jurisdictional laws may not adequately allow for new business models of vehicle selling.

Dealers may choose to ignore current physical display area requirements, placing undue work and hardship on investigative staff that enforce regulations that may not fit with current commerce models.

Challenges of Implementing the Best Practices

- Cost of updating software to create data fields to manage URLs
- Inspecting dealer's online inventory may be more challenging
- There may be challenges from some areas of the industry for jurisdictions considering law and policy changes that are not consistent with the direction industry is moving.
- Some aspects of the industry may challenge an exemption for the need for physical vehicle display area requirements.
- The cost of technology training and tools needed for enforcement staff to properly conduct inspection and investigative procedures
- Educating dealers on proper records management, accessibility, and retention of online sales records
- Many licensing agencies are required by statute to be "self-supporting" entities, not supported through any other revenue sources, such as state taxes, and may not have the means to implement some aspects of this document within existing resources.
- Ability to obtain and retain evidence of misconduct of the internet vehicle dealers

4.2 Unlicensed Vehicle Dealers

Background

It is common for jurisdictions to consider a person engaging in dealer activities but not licensed as a dealer as “someone who is conducting dealer activities.” Internet vehicle sellers must be licensed as dealers if they are engaging in dealer activities. Many individuals have developed online businesses for conducting vehicle sales without obtaining licenses from the jurisdictions in which they are operating. This puts consumers at a disadvantage because they do not realize they are buying from a professional that should be licensed as a vehicle dealer. It is also difficult for the consumer to approach a jurisdiction for assistance because most consumer protection agencies are geared toward dealing with licensed businesses.

Many individuals have developed online businesses for conducting vehicle sales without obtaining licenses from the jurisdictions in which they are operating.

Consumers buying from an unlicensed individual can encounter problems with the vehicle such as undisclosed vehicle ownership history, undisclosed damage, rolled-back odometers, title fraud, and stolen vehicles. Unlicensed sellers may be able to successfully avoid detection by not titling the vehicle in their name prior to selling it. When this happens, jurisdictions may lose the record of a vehicle’s chain of custody or ownership.

Recommended Best Practices for Jurisdictions

4.2.1 Implement internet search tools to identify private sellers also known as curbstoners that are selling vehicles that would require them to be licensed in a jurisdiction. For example, use software that searches phone numbers, email addresses, physical addresses, and the number of vehicles being sold by the same individual and flags activity that could constitute unlicensed activity.

4.2.2 Implement tools at state titling agencies that help identify individuals selling more vehicles than are allowed by law. Limits should be placed on the number of vehicles a private individual can display for sale or sell without being licensed.

4.2.3 Maintain open lines of communication between the licensing agency and the agency responsible for consumer protection efforts.

4.2.4 Establish a clear mechanism for reporting unlicensed activity to the proper jurisdiction.

4.2.5 Title laws should establish appropriate administrative actions, civil sanctions, or criminal penalties for failing to obtain or deliver a valid title or other ownership document within the timeframes established by the jurisdiction where the sale occurs.

4.2.6 Establish appropriate administrative actions, civil sanctions, or criminal penalties for acting as a dealer without a license. Include elevated liability for repeat offenders.

4.2.7 Title applications should require a full legal name to allow for one record for an individual. This allows for the ability to track the number of vehicles sold by an individual. Formalizing the title name field will permit a jurisdiction to craft informational tools to identify unlicensed vehicle dealers. Titling agencies should routinely monitor individuals who sell more vehicles than is permissible under the laws and rules and report to the appropriate agency for investigation when needed.

4.2.8 Title applications should require the license number of all selling licensed dealers and identify the jurisdiction issuing the license. The application should be recorded in the title and registration database to aid investigative processes.

4.2.9 Develop and distribute materials to educate consumers on the lack of consumer protections when conducting business with an unlicensed dealer.

4.2.10 Licensing agencies should maintain a current list of licensed dealers on their websites to assist the public in identifying dealers with a license in good standing. Jurisdictions may consider listing on their website the URLs of licensed dealers if available.

Benefits of Implementing the Best Practices

Jurisdictions that implement the best practices will better equip their enforcement agencies with the tools they need to hold unlicensed dealers accountable. Enforcement agencies will be able to use analytical search tools to identify possible unlicensed dealers by allowing them to search for trends and patterns in the digital data.

Better collaboration between enforcement agencies, licensing agencies, and consumer protection agencies will allow jurisdictions to address consumer complaints, arising from internet sales transactions, from a variety of different angles. Clearly defined statutes will allow jurisdictions to hold unlicensed dealers accountable by appropriate administrative actions, civil sanctions, and criminal penalties and should ensure that repeat offenders face more severe penalties.

Jurisdictions that implement the best practices will better equip their enforcement agencies with the tools they need to hold unlicensed dealers accountable.

Additionally, consumers will be better protected against fraudulent vehicle sales. They will be able to identify whether or not they are dealing with a licensed dealer or a private individual, will have the tools needed to ensure that they are buying the vehicle they think they are buying, and will be better educated on the overall process of buying a motor vehicle. These best practices will help consumers be more aware of the potential dangers of buying a car from an unlicensed dealer.



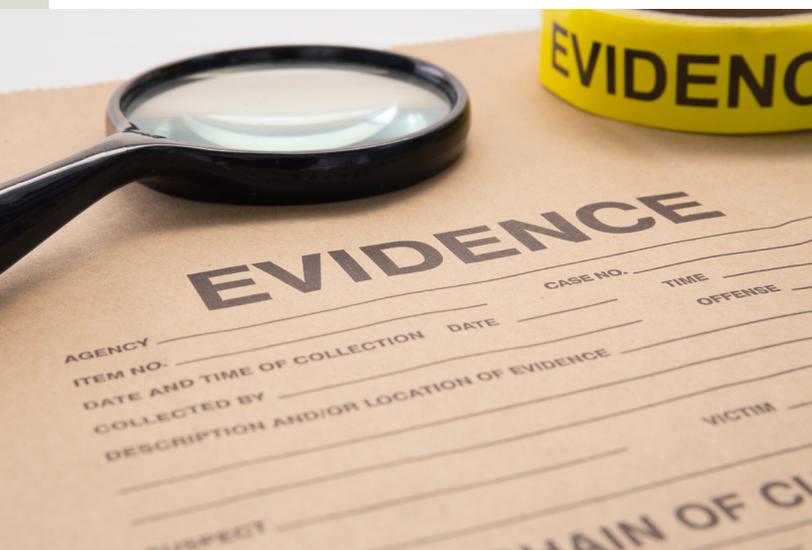
Law Enforcement Considerations

The following recommendations to jurisdictions will support effective enforcement:

4.2.11 Statutes should include appropriate administrative actions, civil sanctions, and criminal penalties to combat unlicensed dealer activities. The laws should clearly define the activities which require licensure and clearly define the unlawful activities. To facilitate the deterrence of unlicensed activity, dealer licensing agencies, titling agencies, and investigating divisions and agencies should collaborate to identify and address the illegal activities. Jurisdictions are encouraged to form a multiagency team with overlapping interest in vehicles sales, including, but not limited to; revenue services, consumer protection divisions, attorney general offices, and Department of Motor Vehicles (DMV) investigation units.

4.2.12 Develop and disseminate to the public clearly defined procedures for reporting and acting upon unlicensed activities. The public and the agencies involved with these issues should be educated about the types of unlicensed activity and the availability of assistance from the jurisdictions and the involved agencies.

4.2.13 Develop internal controls that flag potential illegal activity. Information technology (IT) departments within licensing and titling agencies should be used to develop automatic notices or edits to be triggered when thresholds for the number of vehicles sold are met or exceeded. IT departments should also create programs to run queries and compile information using a variety of different search parameters.



4.2.14 Regulatory agencies should educate law enforcement and other government agencies on the indicators of an unlicensed operation and where they can go to report the information. Cooperation between law enforcement agencies, fusions centers, and other criminal intelligence-gathering offices should be encouraged to ensure that information about unlicensed dealers is disseminated among agencies sharing jurisdiction.

4.2.15 Enforcement agencies should prepare for the collection, extraction, and storage of digital evidence. Partnerships should be developed between regulatory and enforcement agencies that are tasked with identifying unlicensed dealers and other law enforcement entities to develop procedures for handling digital evidence.

4.2.16 Review and implement the standards developed by the AAMVA DMV Investigator Integration

Working Group to attempt to align their enforcement agencies with the best practices developed by AAMVA.

4.2.17 Agencies investigating unlicensed dealers should have members attend the AAMVA monthly fraud awareness call to share information on illegal activity.

Risks of Not Implementing the Best Practices

- Consumers are subject to increased risk of encountering dishonest sales practices.
- Lienholders are at greater risk of vehicles being disposed of without security interest being honored or recorded.
- The collection of sales taxes and income taxes from businesses may be hampered if the sales are hidden as private seller transactions.
- Consumers may be exposed to a criminal element.
- Fraudulent vehicle transactions may increase.
- Law-abiding vehicle dealers will be at a competitive disadvantage to scofflaws.
- Jurisdictions would have no mechanisms in place to address unlicensed activity.
- Consumers may purchase unsafe vehicles.
- Consumers may not be able to obtain vehicle ownership documents, preventing the purchaser from perfecting ownership or the ability to operate the vehicle purchased.

Challenges of Implementing the Best Practices

- Resources will be needed to sort through and investigate leads
- Data-mining software can be cost prohibitive
- Resources to investigate, extract, and store digital evidence may be expensive and taxing on jurisdictions and their staffing

- Industry may push back against additional requirements
- Educating legislators and gaining support for needed law and regulation amendments
- Developing statistics and facts to support the needed law and policy changes
- Educating prosecutors on the importance of violation of dealer sales laws

4.3 Private-Party Vehicle Sales

Background

Retail consumer protections in vehicle sales are greatly reduced when the seller is a nondealer private party. The internet provides a platform for connecting private buyers to private sellers regardless of physical distance between the parties. This may reduce the price and complexity of the vehicle transaction, but much of that complexity exists to protect the retail buyer. In a private-party nondealer transaction, the retail buyer has limited recourse if an issue arises with the transaction. The protections available to retail buyers of used vehicles sold by private-party sellers normally come with no warranty or guarantee of any kind and are not certified in any way. Many jurisdictions' consumer protection laws are limited to sellers that are in the business of selling and do not include private citizens conducting a single transaction. Federal protections such as the Magnuson-Moss Warranty Act and the Federal Trade Commission's (FTC's) Holder in Due Course Rule have limited application to private-party vehicle sale transactions.

Recommended Best Practices for Jurisdictions

4.3.1 Educate consumers on the details surrounding a vehicle sale and title laws in general. Consumer education should include discussions of private nondealer sales that provide limited consumer protections.

4.3.2 Consider developing and making available to consumers a vehicle buyer's guide. A sample Smart Buyer Guide is provided in [Appendix C](#).

Provide links on jurisdiction's websites for access to vehiclehistory.gov for brand and odometer history and to the National Highway Transportation Safety Administration (NHTSA; www.safercar.gov) to check for vehicle recalls from manufacturers.

4.3.3 Provide links on jurisdiction's websites for access to vehiclehistory.gov for brand and odometer history and to the National Highway Transportation Safety Administration (NHTSA; www.safercar.gov) to check for vehicle recalls from manufacturers.

4.3.4 Public service announcements and other media should be developed to promote consumer awareness. See [Appendix B](#) for a list of resources, some of which are free and available for jurisdictions to share on their websites.

4.3.5 Jurisdictions may also work with public information officers to fill internet space within search engines to ensure legitimate jurisdiction information appears ahead of information that misleads consumers (such as snippets).

4.3.6 Jurisdictions are encouraged to work together to promote each other's web services and improve internet search ranking to provide legitimate agency results.

4.3.7 Consider establishing laws requiring a seller to obtain and provide a title or other ownership documents within jurisdiction's established timeframes. Appropriate administrative actions, civil sanctions, and criminal penalties should also be established. Failure to provide title or ownership documents in conformance with the law may result in criminal or civil prosecution.

Benefits of Implementing the Best Practices

Implementation of the best practices will reduce consumer harm and enhance consumer protection. An increase in the presence of the jurisdiction's website on the internet ensures more consumers are able to get the information they need before purchasing a vehicle. Commerce also functions more efficiently when consumers enter into transactions armed with the knowledge necessary to make informed purchases. Increased consumer knowledge concerning title brands will result in fewer rejected title transfers and thus reduce title processing timeframes. Consumers who are aware of the warning signs of a risky transaction will ultimately file fewer complaints because fewer buyers will subject themselves to situations in which an unscrupulous seller could take advantage of



them. Private sellers may also take advantage of the educational material provided by the jurisdiction and use it to ensure compliance with jurisdiction title and odometer disclosure laws.

By implementing these practices, a “level playing field” is created for legitimate businesses, and the practice allows consumers to compare “apples to apples” when shopping for a vehicle.

Enforcement Considerations

Expanding awareness of the potential pitfalls surrounding private-party vehicle sales and providing information that allows consumers to make informed purchasing decisions will likely result in a decrease in the number of consumer complaints received by

regulatory agencies. Many consumers will use the information to avoid risky transactions, and others will decide to avoid private-party transactions altogether. Fewer complaints ultimately results in better utilization of resources for regulatory agencies, which in turn results in improved safety for the public.

Risks of Not Implementing the Best Practices

Failure to provide the public with educational resources to assist in making informed purchasing decisions increases the chances that consumers will be harmed by fraudulent transactions. Lack of information concerning the distinction between licensed dealer sales and private nondealer sales also increases the chances of consumers filing complaints based on the mistaken assumption that a regulatory agency will be able to provide assistance.

Additionally, a greater number of title documents are likely to be rejected as incomplete when private parties conduct vehicle sale transactions without the benefit of educational materials provided by a regulatory agency.

Some of the risks to consumers purchasing vehicles through a private sale are discussed in section 5.4.

Challenges of Implementing the Best Practices

Obtaining resources necessary to develop and implement educational materials for the public could present monetary or staffing challenges for jurisdictions. Researching the most effective medium to promote educational awareness material will also require time and additional resources to compare cost effectiveness and greatest visibility. The process surrounding needed statutory changes and administrative rule creation or updates may also be a hindrance to implementing best practices related to private nondealer sales. Jurisdictions may want to explore opportunities to obtain dedicated funding to help educate and protect consumers.

4.4 Elements of a Vehicle Sale

Background

A growing percentage of vehicle sales are being conducted partially or completely over the internet. Internet vehicles sales can generate issues for a jurisdiction in determining where and when a vehicle sale takes place. Although normal rules relating to the enforceability of a contract between parties can be applied, sourcing the where and when of an internet vehicle sale can be problematic when there are title issues after the vehicle has been physically exchanged and the seller is from one jurisdiction and the buyer is located in a different jurisdiction. The sourcing of the internet sale gets even more complicated when factoring in the respective jurisdiction's titling laws. Depending on the jurisdictions(s) involved, the sale provisions in the Revised Uniform Commercial Code (UCC) may clash with a jurisdiction's titling laws. The increase of vehicle sale transactions with jurisdiction diversity between buyers and sellers can have an even murkier effect on third parties that may have a claim or lien on the vehicle being sold.

Guidelines for Evaluating the When, Where, and If of a Vehicle Sale Between Parties in Different States

A jurisdiction is well advised to have clear direction to its citizens on what constitutes a vehicle sale and what geographic location the sale will be considered to have occurred in.

A good starting point for evaluating any commercial sale is the UCC that has been adopted by most U.S. jurisdictions. Normally, the jurisdiction's laws will reference the template code number "Sec. 2-401." UCC Sec. 2-401 states that ownership of the vehicle normally occurs with **physical delivery** of the vehicle to the buyer. The parties may jointly and in writing agree otherwise regarding where and when the sale event occurred.

Because physical delivery, or possession, of a vehicle is often the determining factor as to when and where the sale occurred, it is important for jurisdictions to have full understanding of their title laws. If a jurisdiction finds that its title law conflicts with the application of UCC rules, the jurisdiction should obtain clear direction from their legal counsel as to how the location and date of sale are determined.

A jurisdiction is well advised to have clear direction to its citizens on what constitutes a vehicle sale and what geographic location the sale will be considered to have occurred in.

Title laws are commonly classified into two categories: a "registration system" or an "ownership system." A registration system is consistent with the UCC rules and is one wherein legal ownership of a vehicle passes to a purchaser upon physical delivery (possession) of the vehicle unless the parties agree otherwise in writing. An ownership system is one wherein legal ownership of a vehicle does not pass to a purchaser until a new title is issued in the purchaser's name.

For jurisdictions using a registration system, one way that is commonly used to determine where and when a sale is completed when a seller is in one jurisdiction and the buyer is in another is to review vehicle transport arrangements. If the seller arranges for the transport of the sold vehicle to be delivered to the purchaser in a jurisdiction other than where the seller and vehicle are located, then the sale would be considered to be completed at the time the purchaser takes physical possession at the time and location of physical delivery. If the buyer makes the transport arrangements, with the transport company picking up the vehicle at the seller's location, then the sale would be considered to be completed at the time the purchaser takes constructive possession of the vehicle when the transport company takes physical possession of it at the buyer's direction.

Although the parties to the sale may have the ability to agree in writing to where a vehicle sale occurs, such an agreement will not enable a licensed vehicle dealer to avoid its jurisdiction's consumer protection and dealers laws regarding the sale of vehicles.

Because the transfer of legal ownership occurs at sale, jurisdictions with a registration system may have relaxed processes for vehicle title applications compared with ownership system jurisdictions. Under an ownership system, buyers with title document issues are required to seek resolution through independent civil actions with a higher frequency.

Jurisdictions operating under the ownership system should work together to determine the controlling jurisdiction based on when and where a sale occurred when faced with situations in which a seller is in one jurisdiction and the buyer is in another.

For example, New York's certificate of title law expressly preempts the jurisdiction's UCC rules, but the State of Texas has gone in the opposite direction and ordered that its version of the UCC preempt the jurisdiction's certificate of title law. Jurisdictions should attempt to administer the UCC and certificate of title laws harmoniously when possible and to have clear direction from legal staff on how to proceed based on the controlling statutes when they conflict.

It is important for jurisdictions to analyze these factors to determine controlling law when investigating sales that originate over the internet.

Recommended Best Practices for Jurisdictions

4.4.1 Jurisdictions should familiarize staff on prevailing title law in the jurisdiction and provide training on how it applies to interjurisdictional internet sales.

4.4.2 Educate consumers on the importance of having a written agreement between the seller and buyer that clearly specifies where and when the sale occurred. Jurisdictions are encouraged to provide information about their prevailing title law on their websites and to

offer a form for a written agreement specifying when and where the sale occurs.

4.4.3 Provide resources and education to consumers to help them know how and to whom to ask for assistance when the consumer believes they may have been subjected to fraud via an Internet vehicle sale.

4.4.4 Reach out to legislators and legislative staff on the legalities surrounding vehicle sales to help policy makers better understand vehicle dealer sales issues and enhance legislators' abilities to create and enhance applicable laws.

4.4.5 Create clear rules for when and where actual physical delivery of the vehicle occurs. Assistance in developing those rules is located in Section 2-401 of the UCC:

Unless otherwise explicitly agreed title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place; and in particular and despite any reservation of a security interest by the bill of lading

- (a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of shipment; but
- (b) if the contract requires delivery at destination, title passes on tender there.

4.4.6 Create a criminal offense or infraction for a seller's failure to deliver marketable and lawful title to a buyer within a specified period.

4.4.7 Adopt clear standards or regulations explaining when a seller's actions constitute acting in the capacity of a "vehicle dealer" and require such seller to secure a vehicle dealer license when he or she is determined by the jurisdiction to be acting in the capacity of a vehicle dealer.

Benefits of Implementing the Best Practices

By adopting clear and expansive rules on when a seller's actions constitute vehicle dealer activities within a jurisdiction, more vehicle sale transactions will be covered under the umbrella of vehicle dealer sale transactions, which will in turn lead to many additional consumer protections applying to the transaction. In the U.S. Supreme Court's holding in *South Dakota v. Wayfair, Inc.*, 138 S.Ct. 2080, 201 L.Ed.2d 403 (2018), the Court expanded a jurisdiction's powers to regulate out-of-state actors actions that lead to transactions within the jurisdiction. The mere fact that a seller is not physically based in the jurisdiction no longer serves as an absolute bar from the jurisdiction regulating the seller if such seller conducts a significant number of transactions within the jurisdiction.

By expanding the classification of vehicle dealer activity, a jurisdiction better supports its constituent, vehicle buyers, because sales conducted through a vehicle dealer will require a buyer's guide, include implied warranties, provide access to a vehicle dealer's surety bond, and enable the jurisdiction to assist in providing consumer protection over entities the jurisdiction has regulatory authority over. In addition, used vehicle sales involving vehicle dealers are more likely to involve financing of the purchase by a third party, and such third-party financing will lead to additional protections to the buyer and lienholder.

There may be additional benefits to the jurisdiction by providing the jurisdiction with tax enforcement tools against the out-of-jurisdiction entity that chooses to conduct dealer activity within the jurisdiction.

Most jurisdictions will have consumer protection acts. Such acts will normally address two classes of wrongful acts: (1) deceptive acts and practices and (2) unconscionable acts and practices. For the act to apply, the seller will need to be a supplier or retail seller, and an occasional personal sale will not trigger application of such act. A jurisdiction's creation of a clear

definition for when a seller shall be treated as a vehicle dealer, supplier, or retail seller will assist aggrieved buyers with using the buyer's consumer protection act to secure relief.



Other advantages of adopting these recommendations:

- Helps determine where a sale occurred to increase effectiveness and efficiency of enforcement efforts and provides guidance on licensure requirements
- Provides consistent standards to apply to all vehicle dealer sales business models
- Improves enforcement efforts both within and across jurisdictions
- Enhances communication both within and outside of the jurisdiction

Challenges of Implementing the Best Practices

It may be difficult to find legal resources within an agency to provide instruction on where the jurisdiction falls between the ownership model and registration model described earlier. This research can be beneficial to the jurisdiction in the long run by developing legal staff's expertise, which will improve their resources for future use by the jurisdiction.

Discussion with policy makers and legislators may be required to make changes to laws and administrative rules to ensure the jurisdiction is current with evolving business models and protecting constituents if jurisdiction laws are inconsistent or unclear on whether the jurisdiction has adopted an ownership or registration model. A jurisdiction's resources will also have to be committed to establishing cooperative relationships outside of the jurisdiction's state, province, or territory, and that will take additional time and resources.

A jurisdiction will have to find marketing and information technology staff resources in developing an outreach program described earlier to help educate citizens.

Increasing the potential number of vehicle dealers licensed by a jurisdiction may increase the jurisdiction's responsibilities and therefore may increase staff costs to regulate the additional vehicle dealers.

Law Enforcement Considerations

4.4.8 Creation of clearly defined rules for when a vehicle sale occurs within its jurisdiction will simplify the investigation and reduce the variables for the investigator or prosecutor in successfully remediating the complaint. Clearly defined rules will lead to the jurisdiction using its resources more efficiently.

4.4.9 Vehicles bought and sold via interstate commerce can bring investigative challenges if a consumer files a complaint in a jurisdiction related to a vehicle purchased from an out-of-jurisdiction seller. Investigators should consider the following questions: Who has jurisdiction to investigate? In what jurisdiction did the sale take place, and what are the factors to consider? If a crime has occurred, in what

jurisdiction did it occur? What legal rights does law enforcement have to obtain information and records from an out-of-state seller? These are all questions a jurisdiction should be prepared to address as vehicle sales increase in interstate commerce.

Risks of Not Implementing the Best Practices

Consumers and lenders will be more susceptible to fraud, negligence, and deceptive practices associated with internet vehicle sales.

When there is no clear definition of where and when a sale takes place, law enforcement, regulators, and consumers will have little guidance to determine who has jurisdiction over the transaction. This can be problematic for an investigator or consumer when he or she is attempting to persuade a local prosecutor to initiate charges against a bad actor. The local prosecutor may be unfamiliar with such prosecutions and therefore be resistant to taking the case.

No clear definitions on where and when a vehicle sale occurs or if the seller is acting as a vehicle dealer within the jurisdiction will also lead to inconsistent and unequal application of laws and rules.

Jurisdictional variances lead to additional challenges for investigators conducting investigations and reviewing buyer or constituent complaints if the dealer or manufacturer is conducting sales outside of the investigator's jurisdiction. Uncertainty in the jurisdiction about applicability will negatively affect a jurisdiction's legal authority to bring charges against an unlicensed vehicle dealer based out of the jurisdiction that is conducting regulated sales within the investigator's jurisdiction.

Chapter Five Best Practices for Addressing Internet Advertising

5.1 General Advertising Requirements

Background

Most jurisdictions have general advertising laws, rules, or policies that may have been developed many years ago when most advertising was done in newspapers and on television and radio, which reached only consumers in the local geographical area. The current regulations may not address all of the concerns related to internet-based media advertising. In addition, there are federal regulations addressing internet-based sales activities. Today, people who are physically located anywhere can see and react to an advertisement they find during an internet search.

It is important that all forms of advertising provide accurate and complete information to protect consumers against deceptive internet advertising practices and to help them make informed decisions.

A jurisdiction's code should be written so that it prohibits persons or businesses from advertising practices that are deceptive, fraudulent, misleading, false, or misrepresentative. Nor should the advertisements contain false promises, false pretense, concealment, suppression, or omission of information affecting the cost or value of any vehicle through any medium.

Jurisdictions are encouraged to educate consumers where to submit their complaints. This education should include the agency, the type of complaints handled by the agency, and the process required to file the complaint. Ideally, this type of information will be located on the jurisdiction's website, and a more detailed account will be located on the primary agency's website.

It is important that all forms of advertising provide accurate and complete information to protect consumers against deceptive internet advertising practices and to help them make informed decisions.

Recommended Best Practices for Jurisdictions

Take steps to require the following for all advertising media:^{*}

5.1.1 Comply with all applicable federal and state laws. See [Appendix A](#) for a list of applicable federal laws.

5.1.2 Comply with general advertising requirements in the jurisdiction where the dealer license is issued.

5.1.3 In addition to general advertising laws, the following recommendations should be considered for online advertising:

- Include the location of the vehicle at the time it is offered for sale.
- Provide the Vehicle Identification Number (VIN) or stock number.
- Disclose all known title brands.
- Disclose the vehicle odometer reading and if it is actual or not actual.
- Disclose if the dealer has title to and physical possession of the title.
- Disclose all known mechanical defects.
- Disclose known prior use of the vehicle.

^{*} Some of these recommendations may not apply to private-party sales of used vehicles.

5.1.4 For a used vehicle, if a photo is used, ensure the photo provided is the actual vehicle listed for sale.

5.1.5 A stock photo may be used when advertising new vehicles as long as it is an accurate depiction of the vehicle and is disclosed in the advertisement that it is a stock photo. When a stock photo includes added options, the price of the options must be disclosed and included in the advertised price. A stock number is required when a price or any of the Federal Truth in Lending Act (Regulation Z) and the Consumer Leasing Act (Regulation M) provisions apply.

5.1.6 Disclose if the vehicle is consigned to the dealer or otherwise not owned by the dealer.

5.1.7 Disclose if the seller does not currently own or possess the vehicle.

5.1.8 Advertisements for vehicles no longer available for sale should be removed from the dealer's or advertiser's website within 48 hours from the date of the transaction or sale.

5.1.9 All advertisements should be included in jurisdictional record retention laws and regulations.

5.1.10 Jurisdictions should require licensed dealers to clearly identify themselves as a licensed dealer and in which state they are licensed.

When state and federal laws are aligned, enforcement actions can be carried out consistently and often collaboratively.



Law Enforcement Considerations

5.1.10 Include appropriate provisions for administrative actions, civil sanctions, and criminal penalties for sales conducted online.

5.1.11 Determine the entity that has authority in the jurisdiction to enforce advertising laws and specifically which entity has the authority to enforce internet advertising laws.

5.1.12 Establish or identify expert staff to enforce dealer internet sales advertising rules and laws.

5.1.13 Establish and promote a complaint process to investigate internet sales advertising violations.

5.1.14 Consider a method of educating the public on dealer internet sales advertising requirements (such as publishing on the jurisdiction's website).

5.1.15 Provide a tool or guidance to law enforcement and investigators to help them recognize false or deceptive internet sales advertisements.

5.1.16 Promote case referral and reciprocity to law enforcement and investigators in other jurisdictions for appropriate action on violations occurring in the other jurisdiction

This best practice also can support consistency across jurisdictions for consumer protection and may level the playing field for new and used vehicle dealers.

Benefits of Implementing the Best Practices

When customers are provided accurate and consistent information in advertisements, they will know where the vehicle is located and whether the seller is a licensed dealer, and noncompliant parties will be more readily identifiable.

This best practice also can support consistency across jurisdictions for consumer protection and may level the playing field for new and used vehicle dealers.

Risks of Not Implementing the Best Practices

Failure to regulate the advertisement of internet vehicle sales may increase the opportunity for sellers to mislead the public or engage in unlawful or criminal sales practices.

Jurisdictions failing to address deceptive, misleading, or unlawful advertising practices may lead to compliant dealers resorting to deceptive, misleading, and unfair advertising practices to be competitive.

The lack of jurisdictional regulations may create opportunities for unscrupulous advertisers and marketing companies.

Challenges of Implementing the Best Practices

Sellers may resist the inclusion of information in advertisements if it results in an increased cost or increases the seller's responsibility for accurate and complete advertisements. Interested parties may consider additional regulations an unnecessary overreach.

Additional statutes may need to be drafted and codified, which requires support of interested parties and must be shepherded through the legislative process.

Jurisdictions may not have adequate and fully trained resources to review and regulate internet advertisements in a consistent manner.

5.2 Use of Social Media to Buy Vehicles

Background

Today, vehicles are posted for sale by dealers and private parties on many social media sites. This can be a very effective and convenient method of advertising vehicles. Consumers should be aware that it can also provide opportunities for fraudulent activities.

As with other forms of advertisement, it is important for the consumer to have accurate information about

It is important for the consumer to have accurate information about the vehicle and to know if the vehicle is being sold by a private party or by a licensed dealer with a physical location.

the vehicle and to know if the vehicle is being sold by a private party or by a licensed dealer with a physical location.

It is possible to set up a fraudulent social media profile and use it to sell vehicles that may or may not exist or are not accurately represented. The consumer may be enticed to buy the vehicle without seeing it and send funds to the seller believing the social media advertisement and expect delivery of the vehicle. This may be a legitimate transaction. However, the consumer should be aware of the potential pitfalls.

A defrauded purchaser may find it difficult or impossible to locate the seller, and there may not be any recourse for the purchaser. Therefore, educating consumers about the risks of buying and selling vehicles through social media and ways to avoid becoming a victim may help to reduce these situations.

Recommended Best Practices for Jurisdictions

5.2.1 Jurisdictions are encouraged to make educational information available to consumers to help them make informed decisions.

5.2.2 Look for noncomplying advertising and unlicensed dealer behavior and activities such as services that promote online curbstoning.

5.2.3 Partner with consumer protection agencies in both state and federal government (FTC) to educate consumers. See [Appendix B](#) for free information and free resources.



5.2.4 Jurisdictions are encouraged to monitor social media sites to identify fraudulent activities.

Benefits of Implementing the Best Practices

- Better informed consumers
- Promotes uniformity and consistency among jurisdictions
- Keeps jurisdictions better informed of fraudulent social media practices occurring within their jurisdiction and other jurisdictions
- By taking these proactive steps, reducing vehicle sales violations becomes a priority in jurisdictions.

Law Enforcement Considerations

5.2.5 Ensure jurisdictional laws support the prosecution of violations committed through the use of social media.

5.2.6 Have personnel properly trained and available to data mine social media sites to look for suspicious activity.

5.2.7 Provide information to the public and dealers on how to report suspicious activities to responsible agencies.

5.2.8 Work within and beyond the AAMVA community to build relationships and partnerships to help facilitate the exchange of information related to suspected fraudulent activities.

5.2.9 Develop or acquire electronic methods of auditing vehicle title and registration records to identify fraudulent activities related to vehicle sales.

Risks of Not Implementing the Best Practices

Jurisdictions failing to address deceptive, misleading, or unlawful advertising practices may provide opportunities and encouragement to sellers to engage in unlawful, and in some instances, criminal sales practices.

Uninformed consumers may be susceptible to theft by deception in whole or in part. They may make down payments or pay in full for vehicles that do not exist or are not what they are purported to be.

Challenges of Implementing the Best Practices

Jurisdictions may find that they need additional resources or funding to implement these best practices.

5.3 Third-Party Advertisers

Background

Third-party advertising is an expanding business. The advancement of the internet and social media provides the ability to electronically advertise in a larger geographical area. Retail vehicle dealers benefit from this type of advertising because they do not necessarily have to maintain their own websites. Rather, they can take advantage of being part of a group site, which creates connections between buyers and seller, or they can entice buyers to visit their websites through other vehicle related sites. It also allows them to track the performance of the advertisements. Some jurisdictions may not have regulations that address concerns related to third-party advertisers, but the other jurisdiction's laws and regulations apply to both dealers and third-party advertisers.

Third-party advertising businesses may include, but are not limited to, marketing companies, sales publications, websites, and mobile and cellular applications, in which there is a form of payment for the advertisement or service. These businesses may fall under actions described as a dealer or salesperson in a particular jurisdiction, which may require licensure by the jurisdiction.

It is important that consumers are protected against deceptive advertising and are able to determine when they are working with a licensed dealer or a private citizen.



Recommended Best Practices for Jurisdictions

5.3.1 Take steps to hold licensed dealers responsible for any advertising law or rule violation committed in advertising by a third party they have contracted with or given permission to advertise on their behalf.

5.3.2 Encourage dealers to require advertisers they have hired to provide the final copy of all advertisements for review prior to publication. The dealer should retain a copy in its files in the event the advertiser produces the advertisement containing errors.

5.3.3 Encourage dealers to be familiar with contractual details with third-party advertisers.

5.3.4 Hold dealers responsible for all third-party advertiser activities conducted on behalf of the dealer.

5.3.5 Consider regulations to require dealers to notify the licensing agency of all third-party advertiser campaigns conducted on behalf of the dealer. The jurisdiction may choose to issue a permit upon notification.

Benefits of Implementing the Best Practices

As with general advertising, this best practice can provide consistency across jurisdictions. Consumers can gain a higher degree of confidence that vehicles are represented as advertised. Licensed dealers and consumers may be better protected from unscrupulous third-party advertiser activities.

Law Enforcement Considerations

5.3.6 Include provisions for appropriate administrative actions, civil sanctions, and criminal penalties to be assessed against dealers for violations of rules or laws related to third-party advertisers.

Risks of Not Implementing the Best Practices

Deceptive or misleading advertising and inconsistent regulations can provide the opportunity for sellers to mislead the consumer or engage in unlawful or criminal sales practices.

Challenges of Implementing the Best Practices

Dealers may resist being held responsible for advertisement violations committed by third-party advertisers.

5.4 Private Sales

Background

Jurisdictions may be able to reduce vehicle sales fraud by helping to educate individuals buying and selling vehicles. Individuals are using the internet to advertise and to sell their vehicles and may not be aware of laws and rules that apply to them when selling their vehicle. Just as buyers can be victims of internet sale crimes, individuals selling vehicles can also be harmed.



Recommended Best Practices for Jurisdictions

5.4.1 Provide the necessary forms for private-party sales on agency websites and in the agency's physical offices.

5.4.2 Provide information on how to properly complete a bill of sale, title transfer, and odometer disclosure.

5.4.3 Provide information to sellers explaining any additional obligations they have when selling a vehicle, such as reporting a vehicle sale to the motor vehicle agency.

5.4.4 Educate private sellers of vehicles to help them protect themselves against risks and from unknowingly failing to comply with appropriate laws.

5.4.5 Provide the following recommendations to individuals advertising privately owned vehicles for sale:

- Comply with all general advertising laws.
- Be truthful; do not provide false or deceptive information to the buyer.
- Use plain language.
- Include make, model, and year of the vehicle.
- Include sale price.
- Disclose all known title brands and all known damage to the vehicle.
- Disclose the vehicle odometer reading and if it is actual or not the actual reading.
- If a photo is used, the photo provided should be the actual vehicle listed for sale.
- Include the location of the vehicle at the time it is offered for sale.
- If the seller does not currently own the vehicle, disclose this fact in the advertisement.

5.4.6 Jurisdictions should provide the following recommendations to individuals involved in a private-party vehicle sale transaction:

- Ensure the vehicle title is available at the time of the sale of the vehicle.

- Beware of joint ownership listed on the title to ensure all parties are present to sign the title transfer.
- Maintain a record of all correspondence, negotiations, and documents related to the vehicle sale, including a copy of any associated advertisements containing the vehicle.
- Have the vehicle inspected by a trusted mechanic before purchasing.
- Determine how and when the payment will be accepted. (The payment method should be carefully thought through.)
- The payment form should be verified to ensure it is legitimate before exchanging the vehicle and title.
- Meet prospective buyers in a safe public area, for example, a public location that has video security capabilities and is well-lighted. A location such as a law enforcement agency can deter fraudulent activities.
- Don't meet prospective buyers alone; do let someone else know when and where the meeting with the prospective buyer will take place.
- Exercise caution when allowing test drives of vehicles by prospective buyers.
- Complete the transfer of ownership on the back of the title. Do not leave spaces blank. Fill in the buyer's name and address, the odometer reading, and the seller's name and signature.
- Ensure all liens indicated on the title are released in writing and provide the lien release to the buyer.
- Provide a bill of sale with the buyer's and seller's names, addresses, and signatures; the vehicle's VIN, make, model, and year; and the accurate sales price to prevent the misrepresentation of taxes due.

- Ask the seller to provide her or his photo identification when viewing the vehicle prior to purchase to ensure that you know the seller is the actual title holder.
- Encourage purchasers to ask the seller to explain any technology that is in the vehicle and to use the owner's manual to help understand the technology. Examples include blind-spot monitoring, lane departure warnings, and tracking devices.

Benefits of Implementing the Best Practices

The more inclusive legitimate advertisements are, the more obvious deceptive advertisements may be. The more informed consumers are, the more the risk of personal injury and financial loss to buyers and sellers may be reduced.

Law Enforcement Considerations

5.4.7 Work with local police departments to determine if they provide an option for a private-party sale location. More and more police departments are

The more informed consumers are, the more the risk of personal injury and financial loss to buyers and sellers may be reduced.

designating a location to conduct the private sale of general merchandise as internet sales of all types of products increase.

Risks of Not Implementing the Best Practices

Sellers may not understand their obligations or risks when advertising and selling a vehicle. Unsuspecting sellers can be victimized: their personal safety can be threatened, they could accept payment that is not valid, or they may not transfer the correct ownership documents.

Challenges if Implementing the Best Practices

It may take additional funding and resources to educate sellers and buyers. Identify and implement the most effective method to provide this information to private-party buyers and sellers.

Chapter Six Purchasing a Vehicle with New Technology

Although this report is not specific to vehicle technology, AAMVA wanted to take the opportunity to make readers aware of the potential to support other AAMVA community highway safety efforts that involve educating consumers on purchasing vehicles.

The potential to enhance vehicle safety increases as technology becomes available in more vehicle makes and models and as technology becomes more affordable. Drivers should receive proper training on the operation, capabilities, and limitations of available safety features when they purchase vehicles to ensure optimal functionality. Therefore, the following recommendations are made to help support conversations on the topic and ultimately support more consumer education and training.

Recommended Best Practices for Jurisdictions

- 6.1** Look for opportunities to inform consumers that technology in vehicles is emerging and that they should understand the benefits and limitations of driver warnings and driver assistance features in their vehicles.
- 6.2** Engage dealers in conversations about the efforts they are undertaking to provide training to consumers on the technology in new and used vehicles as they are purchased.
- 6.3** For private vehicle sales, encourage purchasers to ask sellers to explain any technology that is in the vehicle and to use the owner's manual to help them understand the technology.

Chapter Seven Conclusion

The foundation of this report and the recommendations herein are based on a combination of research, expertise, knowledge, and industry stakeholder input accumulated by the Internet Vehicle Sales Working Group. Because online vehicle sales are increasing and vehicle sales business models are emerging, it is critical for jurisdictions, federal partners, and the vehicle sales industry to continue to learn and to share their expertise for the benefit of the community as a whole.

The recommendations contained in this document should be considered within the jurisdiction's current regulatory structure. The adoption of some of the recommendations may require law, policy, or procedure changes. Therefore, agency officials are strongly encouraged to work collaboratively with stakeholders to determine the approach most suited for their specific jurisdiction.

Appendix A Applicable Federal Laws

Federal laws related to a vehicle sales transaction include but are not limited to:

- Truth in Lending Act (TILA) and Regulation Z
- Consumer Leasing Act (CLA) and Regulation M
- Equal Credit Opportunity Act and Regulation B
- Fair Debt Collection Practices Act
- Fair Credit Reporting Act
- FTC Rules:
 - Used Car Rule
 - Holder Rule
 - Gramm-Leach-Bliley Act
 - Red Flags Rule

Appendix B Resources for Jurisdictions

Federal Trade Commission Rule; Sale of Used Motor Vehicles 53 FR 17660

<https://www.ftc.gov/system/files/documents/plain-language/1988ftcstaffcomplianceguides.pdf>

Federal Trade Commission Advertising FAQ's: A Guide for Small Business

<https://www.ftc.gov/tips-advice/business-center/guidance/advertising-faqs-guide-small-business>

Federal Trade Commission Videos to Help Consumers Shop for Cars

<https://www.ftc.gov/news-events/press-releases/2016/07/ftc-mobile-friendly-videos-help-consumers-shop-cars>

National Attorneys General Training & Research Institute: Consumer Protection

<https://www.consumerresources.org>

This site provides information on consumer education that includes automobile purchases, advertising, and internet use and provides a link to all of the U.S. Attorneys General for complaint filing.

Appendix C Sample Smart Buyer Guide

It is recommended that jurisdictions provide a guide to consumers to help them understand important information they need to consider when buying a vehicle online. Below is a sample guide that jurisdictions may want to add to their website and provide as printed material. This guide can be used as it appears below, or it can be updated with jurisdiction-specific information.

SMART BUYER GUIDE BUYING A VEHICLE ONLINE

Purchasing a vehicle can be one of the most costly purchases you will ever make, so it's important to **be a smart buyer**. This is especially true if you are purchasing a vehicle over the internet. Today's technology has made purchasing a vehicle quicker and easier than ever before. With the ease of using the internet, a smart buyer must ask a number of questions, gathering important information before starting the buying process and, ultimately, closing the deal. In fact, a number of these questions needs to be asked, or at least pondered, before you go online.

This Smart Buyer Guide is designed to provide you, the consumer, with some basics to consider before buying a vehicle online. Here's a checklist of questions and issues to consider before entering into an online vehicle purchase:

- Who are you dealing with on the internet?
 - Is the seller a vehicle dealer or a private party?
 - Is the seller a dealer licensed by your state or another state?
- Who is the owner of the vehicle—the dealer or the private party?
- Where is the vehicle currently located?
- Where am I purchasing the vehicle?
 - What are the sales tax(es) due on the vehicle?
 - Who pays? Buyer, seller, or both?
- Where, how, and when is the payment made?
- Has the vehicle been inspected prior to purchase?
 - Will the vehicle pass a safety inspection in your state?
 - Will the vehicle pass a smog (emissions) inspection in your state?
 - Has the vehicle been involved in a collision?
 - Does the vehicle's title carry a brand of any kind, such as a "salvage" brand?
 - Are there any outstanding safety recalls for the vehicle?
- How will you get the vehicle to your home?
- When do you get title to the vehicle?
 - Who has the legal title to the vehicle?
 - Is there a lien on the vehicle?
 - How will the lien be paid off, and who is responsible for payoff, prior to your purchase of the vehicle?
- What happens if something goes wrong with the purchase? Where do you go for help?

(continued)

The following information is important to know as you consider the questions above.

Who are you dealing with on the internet?

This is perhaps the most important information you need before getting too far into the deal when purchasing on the internet. Is it a dealer? What is a “dealer”? Most states define a dealer as someone who is in the business of buying and selling vehicles.

Is it a dealer? First, what does the internet advertisement say? Some states require a dealer to disclose this information, but many do not. Even if you think you are dealing with an individual or private party, you may actually be working with a dealer. Look for information that may identify the seller as a dealer (dealer license number, name, and so on). Second, in what state or states is the dealer licensed to do business? Again, check the advertisement or website for this information.

Working with a dealer may be “safer” than doing business with an individual because most states have rules the dealer must follow when transacting a vehicle sale. Also, these states may be able to assist you if the transaction is problematic because of these rules. Be sure to check with your state’s licensing authority (the Department of Motor Vehicles, for example) for the rules governing vehicle sales transactions. Another good source of information may be social media sites and business review sites. Look for information regarding the dealer on these sites.

If you are dealing with an individual, you should know the following information: the name of the owner; the name of the seller, if selling the vehicle for someone else; the physical location of the seller or individual; the condition of the vehicle, including any prior collision; the status of the title (subject to lien? Salvage?); and whether the vehicle is available for inspection.

Who is the owner of the vehicle?

The answer to this question is usually found on the title of the vehicle. The title document is the proof of ownership of the vehicle. In any vehicle transaction, you should ask to see the front and back of the title to look for information regarding the Vehicle Identification Number (VIN), lienholder (such as a bank or credit union), registered owner, and any title “brand” (salvage and so on).

Make sure the VIN on the title matches the number on the vehicle; if there is a lienholder on the title, make sure you know how, when, and by whom the lien will be paid. If there is a brand, consider this information in arriving at a purchase price and possible resale value.

In rare cases, the seller may be working off of an invalid or subsequently replaced title document. Use of such an invalid title is fraud. If you have any concerns about the legitimacy of the certificate of title used in the transaction, contact the state motor vehicle agency associated with the title document. The agency should be able to confirm the ongoing legitimacy of the title document.

Where is the vehicle currently located?

If the vehicle is located in another state, you may not be able to inspect the vehicle, so finding out as much information about the seller and the condition of the vehicle is very important. Also, you may need to arrange transport for the vehicle. Remember to consider insurance coverage for the vehicle during transport—Who provides the coverage?

You may want to consider the terms of the purchase payment if the vehicle is located in another state and has to be transported to you.

Where am I purchasing the vehicle?

Important questions to be answered when purchasing a vehicle over the internet are:

- Where is the vehicle physically located?
- Where is the “sale” of the vehicle occurring?

Where the sale occurs is very important because it may affect what rights and obligations the parties have before, during, and after the sale. Where the sale occurs may also affect what taxes are paid and who is required to pay them.

If the dealer or individual selling the vehicle is located in your state, then the sale will be considered to have occurred in your state, and the laws of your state will govern any legal action if all does not go as anticipated. However, many sales are or will be happening across the country or, in some cases, across the world. If you go into another state to

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take delivery of the vehicle or if you arrange for shipment of the vehicle from another state, the laws of the state where the dealer or individual resides may apply to your transaction.

Check the dealer's website or bill of sale or contract carefully for direction as to which states laws will apply if there is a need for litigation. The document you sign, or your online agreement, may commit you to litigation in a state or country not necessarily to your liking or advantage.

If you are not sure where the sale is occurring, you may wish to find out this information before proceeding with the transaction.

Taxes. Sales and use taxes are the taxes commonly associated with the retail sale of a motor vehicle. Two factors that must be considered when determining the imposition of state taxes on the sale of a vehicle include the location of the dealership where the internet sale takes place and which state's laws regulate the sale. Check the sales and use tax laws in your state and in the state where the vehicle is being sold or where the dealer is located.

Where, how, and when is the payment made?

Paying for a vehicle purchased over the internet may require additional steps to ensure the vehicle is delivered to you as anticipated. What are the payment options?

Although convenient, money transfers such as Western Union, MoneyGrams, and money orders offer *no form of fraud protection* or seller accountability. Many fraudulent sellers prefer these forms of payment because after payment is sent, there is practically no way for a buyer to get a refund or track who received the payment.

Never send your bank or checking account information to anyone. This information may provide a way for someone to take money directly from your account.

The use of a credit card may be the safest means of payment for the vehicle over the internet. Many credit cards offer a 60-day protection on each sale, and others offer even more protection for online purchases. Make sure you check first with your credit card company.

If you wish to protect your credit card number, many services (such as VISA, Discover, and American Express) offer temporary numbers to make a one-time purchases online. These temporary numbers may expire after one use or may hold limited funds. Please contact your credit card company to find out how they can protect you with online purchases.

If using a payment service (such as PayPal) protection is limited. These services allow sellers to accept credit cards, checks, and money orders online, making it convenient for buyers to keep their payment information private. Each payment service has different regulations regarding fraud protection. You may wish to contact your preferred payment service to learn what forms of protection they offer.

Finally, before you pay, MAKE SURE YOU AGREE WITH THE PURCHASE AGREEMENT AND THAT YOU UNDERSTAND THE ENTIRE DEAL BEFORE YOU SIGN. ASK QUESTIONS ABOUT EVERY ITEM IN THE AGREEMENT UNTIL YOU HAVE A CLEAR UNDERSTANDING, ESPECIALLY THOSE ITEMS THAT AFFECT THE FINAL PURCHASE PRICE.

Before you finalize the transaction, be sure to have a copy of the contract and all other documents that you and the dealer have signed. Be sure that all blanks are filled in. If you are e-signing documents, be certain that the software used complies with federal law such as DocuSign, EchoSign, or Adobe. It is helpful for the software to re-create the entire sales contract with your actual signature. **INSIST ON A COPY OF ALL DOCUMENTS.** Be sure your copies include the price paid, how much is still owed on the vehicle, and when your next payment is due.

Has the vehicle been inspected prior to purchase?

Always inspect the vehicle before purchasing. Whether you purchase the vehicle in person or online, always inspect the vehicle. If you are purchasing the vehicle online at a distance from the seller and are unable to inspect the vehicle yourself, you should hire a trained mechanic not employed by the seller. Be certain the inspector checks the vehicle interior and exterior to ensure that everything operates as expected and there is no existing damage to the vehicle. Make sure your inspector understands your state's safety requirements to make sure the vehicle will pass inspection, if required, when you get it home. If the seller refuses to allow the inspection, consider passing on this sale.

In addition to a safety inspection, the vehicle is likely to be subject to a smog inspection upon entry into your state. Can the vehicle pass a smog inspection in your state? If buying the vehicle from another state, make sure the

(continued)

standards for that state are the same or stricter than your state's requirements. With the VIN, you may be able to do your own research about the vehicle's inspection history, whether it has been involved in a collision and if it has an open recall, by checking vehiclehistory.gov and nhtsa.gov/recalls.

How will you get the vehicle to your home?

Where is the vehicle located? Who pays to get the vehicle to your home—buyer or seller? Make sure you know which party is responsible for the cost before you finalize the deal. Before closing the deal, research what companies in the area where the seller is located offer transport services and the cost of the service. Another option is to travel to where the vehicle is located to pick up the vehicle. With this option, you may wish to delay closing the deal (including payment for the vehicle) until you travel to the vehicle location and close the deal at the location. Regardless of the method of delivery, make sure the vehicle is covered by your insurance or the transporter's insurance prior to moving the vehicle.

When do you get title to the vehicle?

The title is the document issued by the state that names the owner of the vehicle. It is proof of ownership. Most states recognize certain other documents as proof of ownership of a vehicle, so if the seller shows you something other than a title claiming it will work as proof of ownership, you should check with your local vehicle licensing agency to see if it is acceptable proof before completing the purchase.

Upon full payment of the vehicle, the dealer or private seller should relinquish the vehicle title to you. Often, a dealer does not have the title in their possession, which means you should receive the title within a few weeks of the purchase. If you do not receive the title in a reasonable amount of time, contact the dealer to find out the status of the transfer.

After you complete the purchase of the vehicle, you should immediately title the vehicle in your own name in your state of residency.

What happens if something goes wrong with the purchase? Who can help?

Most used vehicles are sold "as is" with no promises or obligation by the dealer or private seller to make repairs. If you are dealing with a licensed dealer, the state that issued the license may have laws that provide you some relief for repairs. Be sure to ask the seller about the status of the manufacturer's warranty and if any needed repairs might be covered by the warranty.

If the vehicle was purchased from an individual, you may be able to seek recourse in court depending on the language in the sales contract. It is always good to have a sales contract detailing promises the two parties agreed to in the sale. Be aware that enforcing the contract may require hiring an attorney to resolve the issues.

With regard to a licensed dealer, you may consider filing a complaint with the state agency that licensed the dealer, even if it is in another state. You should understand that it is not likely that the state agency will get your money back; they will simply sanction the licensed dealer. The Attorney General's Office in the seller's state may be able to help you. In addition, the Federal Trade Commission (FTC) may be able to assist you with an internet transaction when the out of state dealer has violated federal laws. As with a claim against an individual, you may wish to file suit, and the services of an attorney may be necessary. It is recommended that you first consult with an attorney where you live.

As you can see, it is very important to gather as much information as you can regarding the vehicle you are interested in purchasing, the seller of the vehicle, the location of the vehicle, the contents of the title of the vehicle, and more so that you can avoid or mitigate potential problems with the sales transaction.

Appendix D Available Investigative Tools and Resources

The following information may assist investigators when conducting internet vehicle sales investigations. These best practice documents are available on the AAMVA's website at www.aamva.org.

Chapter	Subchapter and Page	Information Provided
Twos	The Complex World of Vehicle Fraud, p. 9	Types of vehicle sales and associated fraud; includes private-party sales, internet sales, and third-party sales
Three	Responsibilities of the Fraud Unit, p. 16	Value and significance of investigating vehicle sales
Three	The Right Tools are Crucial, p. 19	Communication strategies between dealer licensing offices and fraud investigative units
Four	Maryland Partnerships in Fusion Centers and Auto Theft, p. 26	Example of the value of establishing a partnership between a fraud investigative unit and State Fusion Center to investigate unlicensed dealers
Four	Prosecutor and State's Attorney Partnerships, p. 31	Example in Iowa of the fraud investigative unit being trained by the Iowa Attorney General's Office to create an awareness of consumer fraud violations involving vehicle sales

Resource: AAMVA Best Practices for the Deterrence and Detection of Fraud Available on the AAMVA's Website

Chapter	Subchapter and Page	Information Provided
One	Responsibilities of the Investigative Unit, p. 6	The benefits of a fraud unit investigating dealer regulations
Two	Job Descriptions, p. 10	Fraud investigator job descriptions to include dealer investigations
Four	Internal Partnerships—Motor Vehicle Operations, p. 13	Networking examples of dealer licensing offices and fraud investigative units working together to investigate dealer fraud, vehicle sales, and related crimes
Four	Dealer and Business Licensing Operations, p. 14	Value of information from dealer licensing offices for fraud investigations
Appendix	Responsibilities of the Investigative Unit, Survey, p. 39	Provides jurisdiction-specific information as to the responsibility of dealer licensing investigations

Resource: AAMVA DMV Investigative Unit Resource Guide Available on the AAMVA's Website

Appendix E Survey Results

Summary of AAMVA Jurisdictional Survey 1

The Working Group conducted a survey in August 2017 via the AAMVA's web survey tool to gather information on internet vehicle sales issues within AAMVA membership. Twenty nine jurisdictions responded, although not all questions were answered. The following is a summary of the survey results. For complete results, visit www.aamva.org. The name of the survey is Internet Vehicle Sales Working Group Survey.

1. Has your jurisdiction identified regulatory issues with increased use of internet vehicle sales? If so, what are the issues?

Fifty-six percent of responding jurisdictions said they have regulatory concerns or problems with internet vehicle sales. The predominant issues provided are:

- Sixty-three percent said dealers advertising and selling at locations not licensed and questions of who has jurisdiction for complaints on out of state sales.
- Nineteen percent said unlicensed vehicle sales, retail sales by wholesalers, and direct manufacturer to consumer sales.
- Other issues included fake dealer internet sites, loss of tax revenue, consumer buying agents, and blind dealer ads.

2. Has your jurisdiction passed laws to address internet or online vehicle sales?

Four jurisdictions have passed laws to address these issues.

3. Has your jurisdiction addressed issues regarding internet or online sales generally? If so, please identify the actions taken.

Thirty-one percent of responding jurisdictions have taken action. The actions taken include:

- Require consumer buying agent to be licensed.
- Change tax laws to recover internet sales revenue.
- Conduct legal research into determining what jurisdiction has authority over sale.
- Enhance dealer advertising laws.
- Establish a state office is dedicated to enforcing internet or online sales.
- Enhance enforcement of unlicensed vehicle sales.
- Eliminate requirement for a land line telephone for dealers.

4. What agency investigates internet sales and complaints for vehicle sales?

Each jurisdiction described the investigatory agency responsible with the majority of jurisdictions stating the following agencies:

- Investigative unit within a motor vehicle agency or department of revenue
- Attorney general's office or equivalent, including consumer protection offices within these agencies
- Public or private dealer licensing agency or board

5. Can an out-of-state dealer sell a vehicle to your resident and deliver it to your resident without being licensed in your state?

Seventy-eight percent of responding jurisdictions said yes, with the majority of jurisdictions stating that the entire sale would need to take place in the selling dealer's home state.

6. Does your jurisdiction define where and when a sale occurs? What factors are considered when determining such?

- Thirty-six percent of responding jurisdictions said they do define *when* a sale occurs.
- Twenty-nine percent of responding jurisdictions said they define *where* a sale occurs.
- Factors that are considered to determine when and where a sale occurs include:
 - Where and when financial consideration is exchanged
 - Where and when vehicle delivery occurs
 - Where and when offer to purchase is accepted
 - Where and when a contract is signed
 - If tax is due
 - For internet sales, a resident purchasing a vehicle from an out-of-state dealer is considered an in-state sale.

7. Does your jurisdiction require all vehicle sales to take place at a licensed dealer location? If so, are there exceptions?

- Sixty-three percent of responding jurisdictions require the sale to take place at the dealers licensed location.
- Thirty-nine percent of responding jurisdictions provide an exception such as car and trade shows, and tent sales.

- Other exceptions include internet sales statute and the vehicle sale may occur at the customer's home or place of employment.

Summary of AAMVA Jurisdictional Survey 2

The Working Group conducted a second survey in February 2018 via the AAMVA's web survey tool to gather information on internet vehicle sales issues within AAMVA membership. Twenty-four jurisdictions responded, although not all questions were answered. The following is a summary of the second survey results. For complete results, visit www.aamva.org. The name of the survey is Internet Vehicle Sales Working Group Survey 2.

1. Does your jurisdiction have laws that define "advertising?" If so, does the definition include advertisements on the internet or advertising on an "online service"?

- Seventy-five percent reported having laws that define some portions of advertising. The majority of these jurisdictions reported the definitions include advertising on the internet or "online service." For some jurisdictions, the responsibility for investigating complaints related to advertising lies within another state agency.

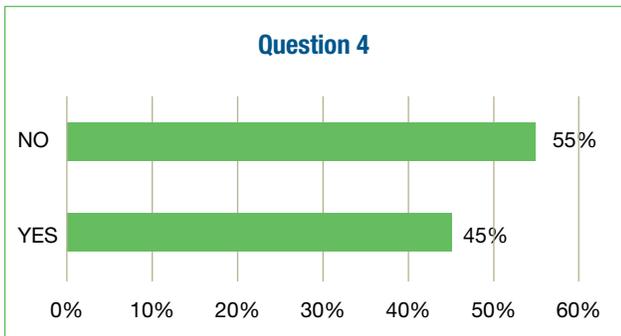
2. Does your jurisdiction require that a dealer identify himself or herself as a dealer and his or her physical location when advertising a vehicle?

- Seventy-eight percent reported requiring a dealer to identify herself or himself as a dealer when advertising. The majority of these jurisdictions said this included stating the physical location of the dealership.

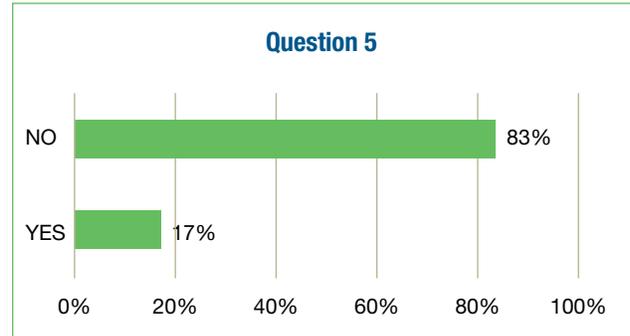
3. How does your jurisdiction regulate what vehicles a dealer may advertise? Does the motor vehicle have to be located at the principal or licensed place of business of the advertising dealer? When does the dealer have to remove the advertisement?

- Part two of the question: Sixty-four percent stated that the vehicle does not have to be located at the principal or licensed place of business of the advertising dealer. (Note: This may not mean it can be *displayed* somewhere else when being offered for sale.)
- Part three of the question: Seventy-three percent *do not* specify when advertisements must be removed. Responses from jurisdictions that do specify a timeframe stated: remove the ad within 48 hours; must be removed in a timely manner; removed upon transfer of ownership or expiration of consignment agreement; and removed when vehicle is no longer available for sale.

4. Does your jurisdiction have laws regulating how pricing of a motor vehicle is advertised?



5. Does your jurisdiction have any advertising laws that apply to only online sales? If yes, can you provide a link or copy?



6. Does your jurisdiction provide any type of consumer guide for motor vehicle sales? For internet sales of motor vehicles?

- Fifty five percent stated they have consumer guides for motor vehicle sales.
- No jurisdiction reported having a guide for internet sales of motor vehicles.

7. Does your jurisdiction regulate third-party advertisers (an advertiser that is not a dealer)? If so, how?

- Eighty-two percent stated they do not regulate third-party advertisers. Some jurisdictions that regulate third-party advertisers do so by regulations placed on the dealer who uses the advertising company.
- For some jurisdictions, the responsibility for regulating third-party advertisers lies within another state agency.

Appendix F Working Group Roster

Jennifer Berry, Chair

Assistant Chief Counsel
Legal Affairs Division
California Department of Motor Vehicles

David Silk, Vice Chair

Detective
Maine Bureau of Motor Vehicles

Teri Baltisberger

DMV Services Manager III
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Bureau of Investigations & Identity Protection,
Iowa Dept. of Transportation

Appendix G Working Group Charter



American Association of
Motor Vehicle Administrators

**safe drivers
safe vehicles
secure identities
saving lives!**

Internet Vehicle Sales Working Group Charter

I. **NAME**

The name of the working group is the Internet Vehicle Sales Working Group, hereafter called the *Working Group*.

II. **PURPOSE AND ANTICIPATED DELIVERABLES**

The *Working Group* is expected to develop best practices for the regulation of Internet vehicle sales and to provide recommendations, tools, and educational materials to member jurisdictions to identify, understand and combat fraud and deceptive Internet vehicle sales practices. The *Working Group's* deliverable can be used by jurisdictions to enhance existing laws or to create new laws addressing the issues.

The *Working Group* will also address wholesale dealer licensing. The *Working Group* will identify issues and develop guidance for jurisdictions to address concerns arising from wholesale dealer licensing.

III. **BACKGROUND**

While most jurisdictions agree Internet sales offer the ability for licensed motor vehicle dealers to expand their businesses and save money previously spent on other types of advertising, a majority of states do not regulate motor vehicle Internet sales. Although the Internet may ease the buying process and expand the choices for buyers and sellers, the Internet can also be a conduit for fraudulent activity enabling those intent on cheating others to make easy money at the expense of the buying public and avoid government oversight.

As we enter the third decade of Internet vehicle sales the variety of options for purchasing a vehicle online continues to expand. On-line advertising by individual dealers and groups of dealers, on-line sales and financing, virtual auctions, and direct on-line sales by manufacturers are a few of the uses of the Internet currently available, with many more likely to come.

There is no national standard for regulating the sale of vehicles via the Internet. The lack of a standard results in each jurisdiction, either having a different set of laws for

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(continued)

regulating Internet vehicle sales, or no authority for regulating this emerging method of marketing.

In addition to the issues related to the growth of Internet vehicle sales, there are also issues and concerns with licensing of wholesales dealers that require attention by the *Working Group*.

IV. MEMBERSHIP

The *Working Group* will include eleven members appointed by the Chair of the sponsoring Vehicle Standing Committee, representing the following disciplines with a balance of members from all four AAMVA regions:

- o Dealer licensing and/or have managerial oversight of motor vehicle dealer licensing.
- o Title issuance process and/or have managerial oversight of said process.
- o Legal and/or policy area expertise.
- o Law enforcement officer or investigator with vehicle fraud investigation expertise.

The *Working Group* will elect a chair and vice-chair.

Industry technical advisors will be identified by the *Working Group* and will be invited to assist the working group.

V. MEETING PROCEDURES

The *Working Group* will meet as needed by conference call and will hold up to two in-person meetings a year, for 2 years. The presence of two-thirds of the members, either in person or by teleconference, shall constitute a quorum. A majority vote of the members present shall constitute an official action on the *Working Group*.

VII. CHARTER AMENDMENTS

Any member of the *Working Group* may propose an amendment to this charter. All proposed amendments will be circulated to all *Working Group* members, and, if approved by a majority of the *Working Group*, will be forwarded to the Vehicle Standing Committee for final approval.

Approved the Vehicle Standing Committee Chair:



Date 8/4/2017

July 1, 2017

OUR VISION

Safe drivers

Safe vehicles

Secure identities

Saving lives!



**American Association of
Motor Vehicle Administrators**

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