

MADA Dealer Seminar Questions Spring 2011

1. Is it okay for title clerk to sign as buyer & seller when vehicle is transferred between our 2 Subaru stores?

In most cases, no, the same person may not sign as both the seller and buyer on any document containing an odometer disclosure statement. The rules are set by the Truth in Mileage Act of 1986.

New Cars - For brand new vehicles "transferred between dealers prior to the first retail sale", each assignment is completed including the odometer reading and only the seller signs. However, on the final assignment to the retail buyer, there must be the signatures of both seller and buyer on the conforming odometer disclosure statement. Even if you have power of attorney for both the seller and buyer, the same person may not sign for both.

Used Cars – Even if you have power of attorney to sign for both the seller and buyer, on any documents used to disclose an odometer reading i.e., dealer reassignment, odometer disclosure statement etc., the same person may not sign as both seller and buyer even if they have power of attorney for both.

See below for specific reference of seller and buyer signatures relating to documents containing odometer disclosure statements along with any exception to the rule:

The "Federal Truth in Mileage Act of 1986" requires the following in the use of a power of attorney on documents used to disclose odometer mileage:

- The Final Rule prohibits the use of a Power of Attorney in any situation where the transferor (seller) and the transferee (buyer) are the same person or agents of the same person or corporation.
- The Pipeline Safety Reauthorization Act of 1988 allows the use of a Power of Attorney when the transferor and the transferee are the same person or an agent of the same person or corporation and the title is in the possession of a lien holder.
- Legitimate uses of a Power of Attorney will continue to be recognized by NHTSA. Such uses include, but are not limited to estate administrators or personal representatives, lessor/lessee dealings and most situations where an owner or joint owner is unavailable.

2. When you sign under customer's Power of Attorney, can you also sign for the dealership as title clerk for same transaction?

Yes. Federal law only prevents the same person from signing as both seller and buyer on any document used for odometer disclosure, i.e. dealer reassignment, odometer disclosure statement. For example, you may sign the "Application for Certificate of Title" form VR-

005, in the dealer certification area and then sign for the customer using your power of attorney at the bottom of the application. Even though the VR-005 contains odometer disclosure information, it is not considered, in itself, an odometer disclosure statement.

3. **How do we add HOV permits to our TriVin inventory?**

The MADA is distributing the HOV permits. Dealers need to submit copies of the Certificate of Origin or Invoice as proof they have plug-in electric vehicles in their inventory for sale. Once a dealer receives the permits, they need to be tracked the same as other controlled inventory, including which vehicle they were issued to and when it was sold to the customer.

4. **Lease titles are not being sent to Lessor even after putting in correct title mailing address in CVR - MVA still sends Lease Titles to customer. THIS IS A HUGE PROBLEM.**

Software issues are currently being addressed by CVR concerning this matter.

5. **If customer pays cash for vehicle with no lien, how long does dealership have to provide title?**

A dealer has 30 days to submit the taxes and required documents to the MVA either dropping off at a full service branch or transmitting through the ERT system.

6. **When transmitting a deal, the incorrect lien holder's code was entered while all the paperwork had the correct information to have the correction processed-is the fee \$20 or \$50? Both amounts have been charged. What room number should the paperwork for the correction be sent to?**

The fee to correct lien information is \$20.00. The MVA should only charge a \$50.00 corrected title fee if the name or vehicle information is being corrected.

All lien corrections are to be sent to room 104 at MVA Headquarters in Glen Burnie.

7. **When issuing a temp tag for an out-of-state customer, what insurance code do you enter when it isn't a MD authorized company and not an option on screen?**

Thank you for bringing this to our attention. We are working with the vendors to resolve the matter.

8. **When does mileage make a car "used"? Can buyers order/bill of sale still say "new" if a car has a Certificate of Origin and has never been titled? Even if it has over 7,500 miles?**

COMAR 11.12.01.14.I.1 Dealer Advertising and Trade Practices, states that a "Demonstrator" vehicle is considered used if it has been driven for more than 7,500 miles.

9. **How do we handle non-compliant Cal Lev vehicles that are dealer exchanged from a state not requiring their vehicles to be Cal Lev compliant?**

A non-compliant vehicle that is dealer exchanged to a Maryland dealer is exempt from the CAL LEV requirement. There are specific exemption codes assigned to each exemption that are entered when the transaction is processed.

See a complete list of exemptions below:

CAL LEV EXEMPTIONS

The following exemptions were identified in the Maryland Department of Environment COMAR regulations:

- Transferred by inheritance
- Transferred by divorce, dissolution, or legal separation.
- Previously registered where mileage exceeds 7,500 miles,
- Purchased by a nonresident prior to moving to Maryland
- A Vehicle sold for the purpose of being wrecked or dismantled.
- A vehicle sold directly from one licensed dealer to another licensed dealer.
- A vehicle sold for registration out-of-state
- A vehicle sold for off-highway use
- A vehicle of a rental agency in Maryland as a result of a rental initiated in a state other than Maryland.
- An emergency vehicle
- A military tactical vehicle
- A vehicle exempted by California Health and Safety Code §43656
- A vehicle replacement vehicle acquired by a resident of Maryland out of State
- A vehicle designated as exempt by the Administration

This law is applicable to vehicles of the 2011 model year and each model year thereafter for passenger cars, light-duty trucks, and medium-duty vehicles. Includes Medium duty vehicles with gross vehicle weight rating of 14,000 pounds or less.

10. **Can you review what you need when one of the parties on a title is deceased?**

When a surviving spouse, joint owner, or personal representative of a deceased person wishes to assign a vehicle over to a dealer, either as a trade or a sale to the dealer, the following documents are needed:

- For vehicles **jointly titled**, the surviving owner may transfer ownership of the vehicle by assigning the title to the dealer by, providing a Certified Copy of the Death Certificate, and lien release if applicable. The deceased person's name is printed on the line as seller and the word "deceased" is written after it. The surviving owner signs as the co-seller.

- If the vehicle is titled in the **individual name of the deceased**, the personal representative signs as seller, indicating personal representative or executor after their signature in the

assignment of ownership area on the title. A letter of administration with the seal of the court must accompany the title and a lien release if applicable.

11. Can you transfer the War of 1812 tags between classes?

Tags may only be "transferred" between vehicles of the same class.

The War of 1812 tag scheme for class A, M, EPO is the same, and tags may be repurchased between these classes. The two-year registration fee and surcharge for the vehicle being purchased must be collected. Disability tags may also be repurchased between classes in the same manor. If personalized tags are being repurchased, also be sure to collect the additional personalized plate fee for each registration year.

The following conditions apply:

Owners must be the "same" or can add or drop a spouse or child.

Must provide disposition of the old vehicle

Submit the old registration card. For ERT dealers only, if the registration card is not available, the dealer's "TAG Pull /Transfer Request" sheet" is acceptable.

New month and year stickers will be issued.