

REQUIRED RECORDS UNDER THE TEXAS TRANSPORTATION CODE

Under 43 TAC § Rule 215.144, motor vehicle dealers are required to maintain certain records. While it seems overwhelming, many of these records are duplicative of other government record-keeping requirements and most can be tracked with a good filing system.

WHY DO I NEED RECORDS?

Taking the time and effort to maintain good business records is more likely to save, rather than cost dealers civil penalties and fines. Over 50% of the complaints received by the Motor Vehicle Division are closed with no action against the dealer, most typically, because the dealer had the paperwork that refuted the original complaint. When investigation of a consumer complaint discloses the dealer has no records or incomplete records, the dealer then finds himself facing an additional penalty for no records besides the original violation complained of. Good records can also assist the investigator in tracking the more serious violations of odometer and title fraud and assist dealers who are also victimized by this fraud.

WHERE AND FOR HOW LONG DO I KEEP THE REQUIRED RECORDS?

A total of 48 months of records need to be kept. Thirteen months of the necessary records need to be kept on the dealer's licensed location for inspection during normal business hours by a representative from the Motor Vehicle Division. The prior months may be kept off the licensed site, but must be in the same county. Some dealers claim they work in high-crime areas

and keep records elsewhere for safekeeping. Originals may be kept off site, if they are easily and speedily available for inspection when needed. However, a copy of the last 13 months' records should be maintained at the licensed location to comply with the rules.

EXACTLY WHAT RECORDS AM I SUPPOSED TO KEEP?

Rule 215.144 lists the records necessary to be available at the licensed location. The information on sales and purchases should include:

- * Date of purchase;
- * Date of sale;
- * Vehicle identification number;
- * Name and address of person selling to the dealer;
- * Name and address of person purchasing from the dealer;
- * Name and address of selling dealer or individual if the vehicle is offered for sale by consignment;
- * For a retail sale, a copy of the white slip, Form 31;
- * Dealer's Monthly motor vehicle Seller Financed Sales Returns, if any.

The rule also requires copies of various documents and forms in the sales file. While the foregoing information could be kept on a computer, a dealer is also required to have available copies of the title applications; work-up sheets; MCOs; titles; factory invoices; sales contracts; retail installment agreements; buyer's orders; bill of sale; waivers; and, any other agreements between the seller and purchaser. Be sure to include copies of *front and back* of these documents, especially titles and contracts.

Records may be kept electronically at the location if they are available for viewing and copying by a department representative.

WHO CAN SEE THESE RECORDS?

Each time a dealer renews his application, or applies for a new license, the application requires a signature under oath, acknowledging the dealer's agreement to make these records available during regular business hours. Failure to allow a Motor Vehicle Division representative access to the records could be construed as a misrepresentation on the license application which could result in revocation of the license. Whether a representative requests to examine records in person at the licensed location, or requests copies of certain records by certified mail, the dealer should respond promptly and completely.

WHAT ARE THE PENALTIES FOR NO RECORDS?

For those who persist in not keeping records, or keeping incomplete records, or failing to provide records upon request, the penalties could run from \$100 to \$10,000 per violation.

ARE THERE OTHER RECORD REQUIREMENTS FROM OTHER AGENCIES?

Yes, and you should be aware that the Comptroller's office, DPS, the County Tax office, NHTSA, OSHA, and IRS all expect you either to keep certain records or to have sufficient records to complete reports due them. Dealers should also be aware of other laws such as Chapter 2305 of the Occupations Code, which requires special records of dealers who sell used or repaired vehicles.

SPEAKERS AVAILABLE

Call the numbers below to reserve a speaker for your meeting. Topics include:

Dealer Law
Lemon Law
Advertising Rules for Dealers

**FOR MORE INFORMATION
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8-12-11

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TO BE KEPT BY
DEALERS**



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