

# DRIVE CLEAN

## Changes Coming January 1

Big changes are coming to the Drive Clean Program that Ontarians have lived with now for 13 years. Dealers will likely be the first to notice them!

Come the New Year, gone will be the days when the system "sniffed" the tail pipe to test for dangerous gases and emissions. Now the Drive Clean computer is going to "talk to" the on-board computer system in the vehicle and assess how clean the vehicle is running.

These changes will affect 1998 and newer motor vehicles. More vehicles will fail than do now under the current program.

One of the concerns the UCDA is looking into is the issue of testing "readiness". Because the new test will be aimed at the on-board diagnostic (OBD) system in the vehicle itself, the vehicle's computer has to be "ready" to give a result to the Drive Clean computer.

Some things that can affect a vehicle's readiness is a recent battery replacement, a code reset, certain servicing or even a loose gas cap.

When the vehicle is not "ready" due to a flaw of some sort, the vehicle will need to be driven for a period of time at different speeds to recreate a diagnostic "record" for the Drive Clean system to check ... and hopefully pass ... the emissions test.

We understand the "readiness" issue is potentially less time consuming for later model used vehicles, i.e. those newer than 2000, but for 1998 to 2000 vehicles, longer drive times may be required.

Depending on the year and make, drive times can range from as little as a few minutes to as much as a matter of days of city and highway driving. Every vehicle is different.

Another related concern is repair and re-test. You can no longer know immediately if a repair has fixed the problem first identified, as again the vehicle must drive through a cycle to allow the system to confirm if the repair fixed the problem and the vehicle can pass the test.

To reduce problems dealers have in assessing vehicles we recommend that you consider buying a hand held OBD scanner. Scanners can range from \$60 to a few hundred dollars and will be able to confirm "readiness" and, in some cases, identify what's wrong with a vehicle's emission system and what monitors or codes are related.

Vehicles with Drive Clean "pass" reports from 2012 can still be sold with the pass effective for 12 months from the date of the test, even after January 1, 2013.

The UCDA will have more information in December's Front Line so we can properly prepare dealers for the new program roll out.

## OMVIC Has Zero Tolerance for Ad Violations

Some of our members have commented on the fact that OMVIC does not seem to give any leeway for advertising that does not comply with the MVDA, 2002.

Almost three years after the law was introduced, and with numerous reminders sent to dealers, it seems that OMVIC's approach is now to enforce the Regulations against those dealers who are still not doing it right. OMVIC does not need to issue a warning before taking action.

A good case in point involves recent charges laid against dealers who are advertising on Kijiji and only identifying themselves by the term "dealer".

This term is ONLY to be used when, as in the case of some print classified advertising, space and cost limitations exist. As this is not so with on-line ads generally, dealers are expected to state the registered name and phone number of the dealership in all such advertising.

Please visit <http://www.ucda.org/DealerInfo/Advertising.aspx> for easy to read and use ad guidelines on the UCDA website.

## Discipline Panel Continues to Hand Out Harsh Penalties

As reported on OMVIC's website, [http://www.omvic.on.ca/info/enforcement/discipline\\_panel\\_decision.htm](http://www.omvic.on.ca/info/enforcement/discipline_panel_decision.htm) new decisions of the Discipline panel appear fairly regularly.

A recent decision involves a dealer who made a series of serious errors, starting with their ads, and ending with the sale of several vehicles ... mistakes which cost them \$12,000!

The dealership was accused of *not disclosing* the previous use of several vehicles as daily rentals in their ads, as required by the MVDA, 2002, and of subsequently selling those same vehicles for *more* than the price advertised and *with additional fees* violating the "all in" pricing aspect of the Regulations.

A couple of individuals will have to take the OMVIC education course and all dealer staff will be offered the same opportunity, at the dealer's expense.

All in all, a very costly lesson for this dealership that we would like to see all members avoid.

## Guaranteed Trade-In Values

Most dealers are probably aware of the prohibition, for many years now, against promotions that invite customers to "*push, pull or drag*" their trade-in to a dealership with the promise of some guaranteed wind-fall in terms of trade-in value.

The practice was outlawed because it led to obvious abuses with each dealer trying to outdo the other in terms of their apparent generosity on trade values.

All this did was encourage more and more misleading advertising, outright misrepresentation and games like increasing the price of the vehicle being sold to falsely "create" higher trade-in values.

A recent OMVIC Bulletin is in response to what OMVIC describes as a "recent trend" toward seeing more of this kind of problematic advertising.

OMVIC gives some specific examples of terms to avoid using in your ads so you don't run afoul of the prohibition:

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**"Claims such as the following are obvious attempts to get around the prohibition and may not be used in advertising:**

- "trade-in voucher worth \$ xxxx"
- "we'll give you up to \$ xxxx more for your trade"
- "mention this ad and receive up to \$ xxxx"
- "print this trade-up bonus and receive up to \$ xxxx"
- "trade up and receive up to \$ xxxx for your trade"
- "all trades accepted. Extra \$ xxxx paid for (insert vehicle make)"
- "push, pull, drag your trade in for \$ xxxx guaranteed"

Note: this is not a complete list; these are meant as examples only. Other wording with similar meaning would also be considered non-compliant."

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To see the entire Bulletin please visit:  
<http://www.omvic.on.ca/pdf/OMVIC%20Bulletin%20Guaranteed%20Trade-in%20Allowances.pdf>.

Violations could be viewed as contravening OMVIC's Standards of Business Practice, which as you read earlier, could result in a Discipline Panel hearing and a penalty of several thousand dollars.

## Expired Status Cards and Temporary Documents

For many years the UCDA has reminded dealers of the importance of carefully checking the Certificate of Indian Status Card to make sure it is the proper card issued by Aboriginal Affairs and Northern Development Canada ("AANDC"), formerly known as Indian and Northern Affairs Canada.

More recently, the same advice was given about the Temporary Confirmation of Registration Document ("TCRD"), also issued by AANDC.

These documents identify Status Indians who are entitled, under the right circumstances, to certain tax exemptions on vehicle purchases.

One element that dealers were warned to be vigilant about was expiry dates. Some of these documents have expiry dates, after which they were not valid.

However, the UCDA has learned that this aspect has been relaxed due to delays at AANDC in rolling out a brand new "secure" Certificate of Indian Status card that will improve security and reliability.

Until further notice, the Canada Revenue Agency will accept an authentic Certificate of Indian Status card or TCRD, **even if expired**, as supporting documentation that the purchaser is a Status Indian. Additional photo identification should be obtained to verify ID as well.

## Delivery On or Off Reserve

A reminder ... in order for a sale to a Status Indian to be fully exempt from HST, the purchaser must take physical delivery of the vehicle on a Reserve.

When you deliver a vehicle to a reserve, we suggest that you record the distance from your dealership to the reserve and purchase some gasoline or something else, on the reserve. Get a dated receipt, with the address of the store and keep it with the vehicle file. Taking and keeping a photo of the vehicle clearly on the reserve wouldn't hurt.

The Status Indian purchaser does not need to live on the reserve or on any reserve in order to be exempt from HST, nor does the vehicle need to be registered to an address on the reserve.

However, 5% tax must be charged if the Status Indian takes delivery anywhere other than at a reserve address. Status Indians are automatically exempt from the 8% provincial portion of the HST.

## Carpages and UCDA Summer Promotion a Huge Success

The UCDA and Carpages successfully teamed up this past summer to give members a real alternative to the high cost of on-line advertising.

Over 220 members signed up for the 50% off promotion, bringing the number of dealers on Carpages to well over 1,000. 95% of Ontario dealers on Carpages are UCDA members. UCDA member vehicles can also be viewed on-line at [www.ucda.ca](http://www.ucda.ca)

Carpages is now the #2 on-line site in Canada and the # 1 ALL DEALER SITE in Ontario.

During the promotion, almost a million people viewed vehicles on Carpages. Nearly 4,000 customers contacted a UCDA member by e-mail and countless more called members directly.

More and more members are commenting that their results on Carpages are increasing significantly and, for the cost, "It is strange that every member isn't on Carpages." Scott Davidson of Stop 23 Auto Sales.

### Carpages pricing through to March 2013

Self Service Plan	Price \$	UCDA \$	Frequency
5-Car Plan - Carpages Lite	N/A	99.95	Monthly
10-Car Plan	149.95	134.95	Monthly
20-Car Plan	179.95	164.95	Monthly
30-Car Plan	219.95	194.95	Monthly
50-Car Plan	279.95	244.95	Monthly
75-Car Plan	329.95	294.95	Monthly
Unlimited Plan	359.95	324.95	Monthly
Account Setup Dealer Page™	199.95	199.95	Once Only

To get on-line with [www.carpages.ca](http://www.carpages.ca) and [www.ucda.ca](http://www.ucda.ca) call: 1-866-567-2437

## Consignment

Dealers who sell vehicles on consignment for consumers already know big changes were brought to this area by the Motor Vehicle Dealers Act and Regulations in 2010.

First, and most dramatic perhaps, is the need for a dealer to open and use a trust account at the dealer's bank.

All funds from the sale of a vehicle taken on consignment from a consumer MUST be deposited into this trust account before being paid to the consignor.

There are notice provisions required once a vehicle is sold and the need to clearly identify the vehicle as "consigned" when it is on your lot.

These requirements apply even if you only sell one or two consigned vehicles a year, or you are taking a vehicle on consignment as a favour to a friend.

OMVIC has provided good detail on these requirements at: [http://www.omvic.on.ca/services/shared/best\\_practices\\_for\\_retail\\_consignment.htm](http://www.omvic.on.ca/services/shared/best_practices_for_retail_consignment.htm)

## Consignment Agreement

In addition, always have your customer sign a proper consignment agreement before putting the car on your lot for sale. It's not only a requirement under Ontario law and OMVIC's Standards of Business Practice, it's for your protection!

The agreement should clarify that the customer is responsible for:

- Loss or damage of any kind to the vehicle, while under the dealer's care, custody or control;
- Any loss of use of the vehicle arising out of such damage;
- Any liability for bodily injury or property damage to third parties arising from use of the vehicle;
- Any accident benefits as defined under the Ontario Automobile Policy arising from such use;
- The agreement should also require the customer to maintain insurance on the vehicle.

If you'd like a sample agreement to use, when taking customer cars on consignment, call Jim Hamilton in the Legal Services Department at (416) 231-2600 or 1-800-268-2598.



## Christmas Holiday Hours

All dealers must be closed on Christmas Day, Tuesday, December 25<sup>th</sup>. Dealers may open on Boxing Day, Wednesday, December 26<sup>th</sup>.

Dealers must also be closed on New Year's Day, Tuesday, January 1<sup>st</sup>, 2013.

Employees are entitled to paid holidays for Christmas

Day, Boxing Day and New Year's Day, so dealers who are open on December 26<sup>th</sup> will need to arrange another day off for employees who work that day.

The UCDA office will close for the Holidays at noon on December 24<sup>th</sup> re-opening on December 27<sup>th</sup> and will also be closed on January 1<sup>st</sup>.

Date	Office Search Hours	Internet Search Hours
Monday, December 24	9:00 a.m. to 12:00 p.m.	9:00 a.m. to 8:00 p.m.
Tuesday, December 25	Closed	Not Available
Wednesday, December 26	Closed	9:00 a.m. to 8:00 p.m.
Thursday, December 27	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.
Friday, December 28	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.
Saturday, December 29	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 8:00 p.m.
Monday, December 31	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 8:00 p.m.
Tuesday, January 1	Closed	Not Available
Wednesday, January 2	9:00 a.m. to 8:00 p.m.	9:00 a.m. to 8:00 p.m.