

# DRIVE CLEAN

## ... Enough is Enough!

Pressure is mounting on Environment Minister Jim Bradley to do something about Drive Clean in the wake of a scathing CTV report. The report points out that clean, newer vehicles are failing Drive Clean tests, while older, dirtier vehicles, without On Board Diagnostic (OBD) systems, are passing a much lower threshold two speed idle test.

The story also pointed out that the Ontario government has banked \$19 million, from what is supposed to be a "revenue neutral" program for the government.

Following this report, many media outlets across the province also chimed in, calling for an end to the program. Even the Toronto Star, normally a staunch supporter of the current government and its policies, has added its strong voice, calling for the government to put the "Drive Clean Program out of our misery". Pretty blunt words from a "friend".

[http://www.thestar.com/opinion/editorials/2013/11/04/put\\_drive\\_clean\\_program\\_out\\_of\\_our\\_misery\\_editorial.html](http://www.thestar.com/opinion/editorials/2013/11/04/put_drive_clean_program_out_of_our_misery_editorial.html)

In an attempt to address the "cash grab" accusations, the government announced in its Economic Statement on November 7 that at some undetermined point in the future it would be lowering the "fees paid by consumers". No mention of dealers. We hope this is an unintentional slip. It goes without saying that whatever the fee may be for a Drive Clean test, it should be the same for everyone!

Until now, the UCDA has refrained from asking the government to scrap or wind down the program, as is being done in British Columbia. Instead, last spring, we

suggested a very reasonable and fair compromise when we met with Minister Bradley.

We asked the Minister to consider exempting newer vehicles, 7 model years or younger, from testing on resale to be consistent with the exemption that already exists for vehicle owners renewing licence plates.

The Minister rejected our suggestion, promising instead to review the program at the end of the year. Well the year is almost over and the recent revelations about failure rates and profits being made by the provincial government speak for themselves.

UCDA members appreciate the adjustments to the program made by the Ministry in February that reduced, but did not eliminate, the problems caused by monitor "readiness" issues.

However, it's now time for the Ministry to accept the fact that the Drive Clean program has outlived its usefulness and has become an inefficient waste of time and money for both dealers and the public.

Improvements in air quality are the result of many factors, not the least of which are lower emission levels in newer vehicles. Today's cleaner and more efficient vehicles deserve the credit, not the Drive Clean program.

It truly is time to end the misery of what amounts to an unnecessary tax on the Auto Industry and southern Ontario's vehicle owners.

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## Drive Clean *(Continued from page 1)*

The UCDA will be writing to the Minister to ask that he quickly announce plans to put an end to Drive Clean.

In the meantime, Drive Clean remains in place and as the weather cools, "readiness" issues will become more frequent, as they were when OBD testing started in January.

We want to remind members what to do if a vehicle fails the Drive Clean test for having too many "not ready" monitors. It is no longer necessary to drive the vehicle for days and hundreds of kilometres to make it "ready".

### Following the failed test:

- Do not disconnect the battery
- Drive the vehicle at least 30 kilometres
- Bring the vehicle back for a test at least 24 hours after the failed test

If the vehicle again fails for not being ready, with the same or fewer not ready monitors, the vehicle can be tested with a two-speed idle test to obtain a pass.

However, the "pass" will cost \$87.50. \$35 for the first failed test, \$17.50 for the failed re-test and another \$35 for the two-speed idle test.

All for a car that has no emission problems. Now that's a cash grab!

## Scanning or Faxing Bills of Sale

It's more common today than ever before that a customer might contact you by email or phone to buy a car. The buyer might come in person later, but they want to do a deal before they do that.

With the sophistication of many websites, the quality of photos and detailed vehicle descriptions, people feel much more comfortable buying a car before they "kick the tires".

Having said that, Ontario dealers still need to have a fully signed and binding bill of sale before they can take a deposit or call the vehicle "sold".

Unfortunately, many dealers, when they send the buyer the bill of sale by email scan or by fax, are only sending the front page of the contract. As you know, the UCDA bill of sale contains many important (and legally required) clauses on the reverse or "back" of the bill of sale.

When you send a bill of sale to a customer and ask them to email or fax it back to you, make sure you are sending them the front and the back of the document.

A failure to do this could void the contract.

## Discipline Panel Penalty

Yet another motor vehicle dealership, along with a branch location, have been handed hefty fines for using unregistered salespeople, lack of disclosure (in this case undisclosed daily rental vehicles) and improper advertising (adding fees to advertised prices).

What makes this latest case stand out is not just the large fines of \$8,000 to the dealership and \$8,000 to the branch. It's the fact that the dealer principal was **personally fined \$9,000!**

In addition, all the parties were hit with the joint responsibility to pay OMVIC \$2,000 in costs and the dealer principal was ordered to take the OMVIC education course. All current and future staff must be given the opportunity to take the course as well, at the dealer's cost.

Why do we continue to publish stories about dealers being fined for non-compliance? Well we don't do it because we enjoy it. Most of the time the dealers involved in these cases are UCDA members!

The reason we publish and will continue to publish Discipline Panel decisions where dealers and individuals are hit with large fines, is to help prevent members from suffering the same fate. Members need to be aware of what is going on out there and where necessary, make changes to ensure this doesn't happen to them.

We don't want to embarrass anyone, so we won't identify the dealers or individuals involved, although all decisions are public record and are available on OMVIC's website.

OMVIC has served notice and members need to be aware that Discipline complaints and hearings will continue to become more frequent and fines will continue to increase until dealer compliance with basic MVDA registration and disclosure requirements improves. Dealers and managers need to focus more on ensuring that processes are in place to prevent these things from happening to them.

For more information or assistance in developing and instituting a process to improve compliance, call the UCDA.

## Administrative Monetary Penalties (AMPs) and You

The Ontario Government is proposing a new means by which to impose monetary penalties, in other words "fines", on businesses, including motor vehicle dealers.

The Ministry of Consumer Services, which oversees OMVIC, among other regulators, is proposing a system of fines ranging from as low as \$100 to as much as \$10,000 for

failure to follow basic laws and regulations governing our industry ... what some might refer to as technicalities.

Called Administrative Monetary Penalties (AMPs), the proposal would allow OMVIC to impose fines, without the right to a hearing, against dealers who commit regulatory infractions.

While many of these infractions could be considered technical violations, the proposal is worded vaguely enough, that it could be used to impose significant fines for alleged regulatory non-compliance.

For example, if you are found not to be carrying your salesperson registration card at the auction, a fine could be imposed by OMVIC, like a police officer giving you a ticket, for up to \$1000.

Or, perhaps your bill of sale does not include your proper legal name, you could be fined \$300 or more on the spot by OMVIC staff. If you fail to include your address in an online ad ... maybe \$750.

The proposal would also permit OMVIC to publish the names of all such "guilty" parties as a "lesson" to others. This is not to say OMVIC would do these things, but the proposal would authorize them to do so.

These technical offences may not provide any meaningful right of appeal or, if they do, may be so hard to fight that they prove pointless to oppose. As written, the proposal is extremely vague about what infractions these penalties could actually apply to.

The Government says the money collected could be kept by regulators like OMVIC or pooled in a fund to improve consumer protection and education.

We wonder if the strain this will put on the relationship between the regulator and the regulated will be worth the money these programs could rake in.

We wonder if dealers, still recovering from the last recession and already taxed and regulated more than ever before, can withstand another "bright idea" like this.

Rest assured, the UCDA is responding to an invitation to make the opinions of our members known to the Government.

One of our first points will be to remind the Ministry that OMVIC already makes effective use of its Discipline Process, with fines that can reach as high as \$25,000. See the "*Discipline Panel Penalty*" article on the previous page.

With the discipline process in place we do not see any need to "AMP" up the power that OMVIC already has.

## Extended Warranty Update

The UCDA regularly updates the list of extended warranty companies that have satisfied us that their warranties are fully insured by a licensed Ontario insurer.

Each of the companies listed below have provided the UCDA with a copy of its insurance agreement, along with a written undertaking by the insurer to notify the UCDA in the event that the coverage is cancelled or changes are made. The UCDA asks the recognized warranty companies to have their insurers provide annual updates to us, confirming that insurance remains in place.

### Verified Insured Warranty Companies

After receiving updates from insurers, here is the current alphabetical list of warranty companies, updated on November 1, 2013, that have met our requirements for insurance recognition.

Coast to Coast Services	1-800-387-0119
Cornerstone United Warranty (XtraRide and AutoXtra)	1-866-607-7120
Coverage One Warranty	1-866-988-1642
First Canadian Protection	1-800-381-2580
Global Warranty	1-800-265-1519
INDS Canada Warranty	1-800-995-0290
Lubrico Warranty	1-800-668-3331
NationWide Auto Warranty	1-888-674-8549
Peoples Choice Warranty	1-888-284-2356

The UCDA does NOT endorse any specific warranty company or product, but strongly recommends that members only offer warranties that are insured by a licensed Ontario insurer.

### MVDA Regulations

The Motor Vehicle Dealers Act, 2002 prohibits dealers from offering third party warranties to their customers unless:

- The warranty is insured by a licensed Ontario insurer; or
- The warranty company has posted a \$500,000 irrevocable letter of credit to the Compensation Fund

OMVIC also lists the companies it recognizes in each category on its website, <http://www.omvic.on.ca/portal/Consumers/ConsumerProtection/ExtendedWarranty/InsuredWarrantyProviders.aspx>

The UCDA considers full insurance coverage to be the best form of protection to adequately shield consumers and dealers in the event that a warranty provider fails to honour its obligations. A letter of credit can quickly be used up, which could then leave the dealer that sold a failed warranty on the hook for consumer claims.

Contact Jim Hamilton at the UCDA if you'd like more information.

## Paypal Scams

Dubai ... United Kingdom ... Nigeria ... shippers ... cashiers cheques ... bank drafts ... wire transfers ... the email scams continue.

Among this vast array, there is one group of scams often referred to as the "PayPal" scam. Many of you will know PayPal as a useful global e-commerce business allowing payments and money transfers to be made through the Internet.

This scam preys on the trust that Paypal has built with their brand to draw in victims.

As the scam plays out, it becomes apparent that despite giving the appearance of being a PayPal transaction, it isn't really one and your money disappears.

CNN Money reported on October 24<sup>th</sup> one such group was broken up and the story serves to illustrate the truly international nature of these crimes:

"A group of Eastern European men have been charged with running a multimillion-dollar scam through sites including eBay and Cars.com, prosecutors announced Thursday.

Charges were unsealed against Romanian national Nicolae Popescu, currently a fugitive, along with five of his compatriots and one Albanian who also remain at large.

U.S. law enforcement officials have issued alerts for the men through Interpol, the international police agency.

Popescu, 33, is accused of leading a crime ring that placed fake listings on e-commerce websites including eBay, Cars.com, AutoTrader.com, and CycleTrader.com.

The listings allegedly advertised high-value items including cars, motorcycles and boats. Prosecutors say the gang secured bank transfers from victims using fake invoices purporting to be from PayPal and other online payment services."

[http://money.cnn.com/2013/10/24/technology/romanian-ebay-scam/index.html?iid=SF\\_T\\_River](http://money.cnn.com/2013/10/24/technology/romanian-ebay-scam/index.html?iid=SF_T_River)

Remember, these scam artists don't want to buy or sell a car, they want your money ... and your money will be the only real money involved!

The best defence against these crooks is EDUCATION, not just for the people who read UCDA Dealer Alerts or Front Line newsletters, but for ALL staff, including salespeople. Everyone in your dealership needs to be made aware of these scams.

Make certain everyone understands the dangers that lurk in cyberspace and protect your dealership from becoming a victim.

## Member Night at Manheim ... Thursday, November 21!



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Thursday, November 21st at 6:30 p.m.

is once again UCDA Night@Manheim Auction  
Milton

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UCDA members will not pay the auction entry fee for vehicles on the UCDA lane.  
*(the buyer and seller fee remain the same)*

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This will be the last UCDA night for 2013 but look for a big announcement about 2014.

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Come out and meet UCDA Staff!  
There will be Free Coffee, Snacks  
& Gifts while supplies last.

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