



Bulletin

Motor Vehicle Sales Authority of British Columbia



Issue #3 - 2011

14 June, 2011

Dealers and illegal tinting

Consumer Nabbed for Illegal Tinting Comes Back to Haunt Motor Dealer

A Kelowna dealership recently sold a vehicle with illegal tinting over the headlights and taillights to a consumer who was stopped by the RCMP. The consumer told the constable that he had just bought the car in that condition from the dealer. When notified, the dealer voluntarily replaced the headlights and taillights at a cost of nearly \$1,200.00.

Because the dealer had acted contrary to Sec. 222 of the Motor Vehicle Act, the RCMP was about to issue a violation ticket to the dealer. However, Chris Hoy, the VSA Compliance Officer for the region, persuaded the RCMP constable to waive ticketing the violation in light of the dealer's cooperation.

According to the Motor Vehicle Act, Section 222: "A person must not sell, offer for sale, expose or display for sale or deliver over to a purchaser for use a motor vehicle, trailer or equipment for them that is not in accordance with this Act and the regulations."

Whether the dealer installs the tinting, or obtains the vehicle in this condition, a vehicle must not have obstructed windows or lamps according to the Motor Vehicle Act Regulations.

The Motor Vehicle Act Regulations, Division 4.04, states that:

"(2) Lamps and reflectors required by this Division

(c) must not be shielded, covered or obscured by any part of the vehicle or load or by dirt or other material."

And Division 7.05 records that:

"(8) No person shall drive or operate on a highway a motor vehicle which has affixed to or placed on the windshield or a window any material that reduces the light transmitted through the windshield or window unless the material is affixed to or placed on

(a) the windshield but not more than 75 mm below the top of the windshield,

(b) a side window that is behind the driver, or

(c) the rear window if the motor vehicle is equipped with outside rear view mirrors on the left and right side of the motor vehicle."

To avoid future risk and additional costs, dealers should not engage in the sale of vehicles with illegal tinting.

Important Notice from ICBC

When importing US and foreign vehicles into BC, dealers are required to pay Autoplan Brokers 7% HST(BC). Some dealers have not been paying HST(BC) and have been using their HST registrant number in lieu of tax payment. This is not acceptable, as ICBC is required to collect and remit HST(BC) from all vehicle importers, whether individuals or businesses, at the time of registration. The HST(BC) paid can be claimed as an input tax credit similar to the GST paid on the vehicle at the border.

On June 19th 2011, ICBC business systems will be blocked to prevent keying of HST registrant numbers on US or foreign imports as a measure of enforcing tax compliance.

Canada Border Services issue either Form B3 or Form B15 to vehicle importers. ICBC then uses these forms to calculate the provincial portion of HST(BC):

- If a B3 is issued, your ICBC Broker will collect 7% HST(BC) on the value for tax
- If a B15 is issued, your ICBC Broker will collect 7% HST(BC) on the total value, including duty (if applicable), plus excise tax

For further information relating to the tax requirements on US and Foreign import vehicles, dealers can call the Canada Revenue Agency (CRA) technical line at 1-800-959-8287, or can contact Sean Burke at BC Ministry of Finance, Income Tax Branch at 1-250-387-0690.

For questions relating to registration, or documentation required for US imports, dealers should talk to their Autoplan Broker.

Recent VSA Hearing Decisions

Kevin Lench was accused of falsifying receipts regarding a consumer deposit. After taking a consumer deposit of \$2,500 Mr. Lench destroyed the dealer's copy of the receipt and created another one for \$2000. Due to a financing issue, the consumer sought the return of the \$2,500 deposit, however was only returned \$2000 by the dealer. Upon comparing deposit receipts, the dealer provided the additional \$500 refund to the consumer. The dealer then confronted Mr. Lench, who then admitted to keeping the \$500. Mr. Lench's employment was terminated by the dealer, who recovered the stolen \$500. The dealer then brought this to the attention of the VSA, and voluntarily participated in the hearing. Kevin Lench's conduct was unbecoming a salesperson in the industry, and was contrary to the public interest. His licence was cancelled. Mr. Lench jeopardized the industry's reputation and his conduct could have led to a Compensation Fund claim; a fund all dealers must pay into. Mr. Lench was barred from reapplying for three years; there is no guarantee that Mr. Lench will be permitted another licence.

Stephen Ironside and Bruce Ironside's application for a salesperson licence was denied. Stephen Ironside declared a USA conviction, and created a legal argument that Canada and the courts cannot consider the conviction as it did not occur in Canada. The VSA found Mr. Ironside's legal argument unsupportable and found that his conduct during the hearing showed an attempt to intimidate the Registrar's exercise of discretion. He cannot reapply for three years and cannot apply for a motor dealer registration until he has been a salesperson in good standing for at least two years. Bruce Ironside applied for a salesperson licence, however he failed to declare a USA conviction of wire fraud and selling foreign lotteries, and he falsified his work history. The VSA discovered his conviction independently, and denied his salesperson application. Bruce Ironside cannot reapply for a salesperson licence for 24 months.

More information can be found at http://www.vehiclesalesauthority.com/compliance_decisions_2011.htm