



Bulletin

Motor Vehicle Sales Authority of British Columbia



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Best Practices

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What You Should Know About Deposits

"Several years ago, the VSA began highlighting consumer deposit best practices. Deposit complaints to the VSA have significantly decreased. And, for those dealers who have correctly handled deposits, we are now in a position to tell consumers that there is nothing more the VSA can do for them." - Ian Christman, the VSA's Deputy Registrar and Director of Licensing.

Deposits are an important topic in VSA Level I and II certification courses. While some elements of deposit handling are at the dealer's discretion, such as whether to keep a consumer deposit when permitted to do so, the majority of issues regarding deposits are defined in law. The following is an overview of deposits with respect to law and the sale of motor vehicles in British Columbia.

Under the *Business Practices and Consumer Protection Act (BPCPA)*, the taking of a payment is a consumer transaction, and must meet the requirements of the Act. This means that the terms and conditions of the deposit payment must be clear, and all material facts must be stated to the consumer. Failing to do so may be a deceptive act under this statute.

The best practice when taking a deposit is to, **in writing:**

- Clearly state the purpose for which the deposit is taken
- Clearly state the amount of the deposit
- Clearly state when the deposit will or will not be refundable
- Clearly state any other agreed to terms such as whether a deposit will be credited towards the purchase of a vehicle
- Have consumers initial the small print or potentially confusing sections of the agreement to protect yourself from problems afterward

NOTE: The enforceability of an agreement is determined by a review of the whole agreement. Complying with the above points does not necessarily create an enforceable agreement.

The consumer must be given a copy of the deposit agreement. If money is taken as a deposit and nothing is said about the reason for taking the money, and the



VSA Curber Conference 2011

The 2011 VSA Curber Conference, held on October 26, 2011, was a great success! The presentations were informative, and the attendees made positive contributions to the group discussions. The issue of curbing was addressed from various angles, including investing in consumer awareness, strengthening partnerships with other organizations, and influencing legislation to reduce curbing. The presenters represented organizations including:

- Automobile Protection Association;
- Canada Revenue Agency;
- CarProof;
- Commercial Vehicle Safety and Enforcement;
- Insurance Corporation of BC;
- Motor Vehicle Sales Authority of BC;
- Ontario Motor Vehicle Industry Council; and
- United States Department of Transportation.

Curbing continues to have a negative effect on the vehicle sales industry, and on consumers who are unaware of the risks involved in purchasing a vehicle privately. The 2011 Curber Conference presented strategies for how we all can combat curbing now and in the future.

The VSA would like to thank all of the sponsors and presenters, as well as all of the attendees for their participation and enthusiasm. We were also happy to have representatives from the Automotive Retailers Association, the New Car Dealers Association, and the VSA Board of Directors. Some

motor dealer later claims that it was for a partial or down payment, this may be a deceptive act under the BPCPA, and may also be an unconscionable act under the same statute.

It is in the motor dealer's best interest to properly document a deposit. The BPCPA states that where a consumer alleges a deceptive or unconscionable act or practice, the onus is on the motor dealer to prove that their conduct was not deceptive or unconscionable. If there is insufficient documentation, then there is little evidence for the motor dealer to meet its burden of proof if a challenge arises.

To find a comprehensive sample deposit agreement, go to vehiclesalesauthority.com/documents/DepositAgreement/.

great insights were shared at the conference, and we look forward to working with our partner organizations to tackle curbing in British Columbia.

If you would like a written summary of the 2011 Curber Conference, please contact us at communications@mysabc.com.

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