

## “BOOTLEGGING”

### GUIDELINES ON NEW MOTOR VEHICLE SALES BY DEALERS NOT FRANCHISED TO SELL SPECIFIC MAKES

It is an unfair practice for a dealer to sell a new motor vehicle as defined in IC 9-13-2-111 unless he is franchised to sell that make or trade name. [IC 9-32-13-4] A dealer purchasing a new motor vehicle for resale for which he does not have a franchise is not exempt from the payment of ‘gross retail tax’ (sales tax). [IC 6-2.5-5-8] This means the **dealer must apply for a title and pay the 7% use (sales) tax for any new vehicle that has a certificate of origin or title for which he does not have a valid franchise before he may resell it to another dealer or retail customer.** This is intended to eliminate the sale of a new motor vehicle by a dealer who is not franchised to sell that particular make of vehicle and who, therefore, would have no obligation to perform warranty service on that vehicle.

**Franchised Dealers Obligation:** Under the law, a franchised dealer must collect 7% use/sales tax and issue an S.T. 108 whenever he sells a new motor vehicle unless the purchaser is exempt from sales or use tax payment. A dealer having no franchise to sell a new motor vehicle is subject to the 7% sales tax as is any other ultimate purchaser under the law. For this reason, franchised dealers have the obligation to collect the 7% tax whenever they sell a new motor vehicle with its certificate of origin to another dealer who is not franchised to sell that vehicle.

**Manufacturers Obligation:** A manufacturer issuing a certificate of origin or second stage certificate of origin and selling a new motor vehicle to a dealer NOT franchised to sell either the first or second stage make of vehicle should collect the 7% sales tax and issue an S.T. 108 as is the case with any other retail transaction.

A manufacturer NOT issuing a certificate of origin or second stage certificate of origin will be subject to 7% sales tax for any vehicle acquired unless franchised to sell that make of vehicle.

**Leasing Companies:** Many new motor vehicles are acquired by leasing companies that are not franchised to sell them. The franchised dealer selling the new motor vehicle to the leasing company can exempt the

transaction from the sales/use tax collection under S.T. 108 Exemption #5. Vehicles can be reassigned on C of O’s from one leasing company to another leasing company for financing reasons by means of the same exemption. Vehicle sales by a leasing company to a fleet customer can only be transacted on a courtesy basis on behalf of a franchised dealer selling cars with the leasing company acting as the agent on the paperwork.

**License Branch Personnel** will make certain that any dealer surrendering a certificate of origin for a new motor vehicle for which he is not franchised also surrenders an S.T. 108 when applying for title. This requirement applies as well to new motor vehicles purchased in other states by Indiana dealers.

**Title Application Type:** A “Dealer Title” may be issued whenever a dealer surrenders a C of O or title. When the dealer needs to title the vehicle in the dealership name for the purpose of dealership or personal use (i.e. parts trucks, etc.) and pay the sales tax, a regular title is required.

**Penalties:** Dealers violating IC 9-32-13-4 are committing a Class A misdemeanor and may be subject to a civil penalty, administrative hearing and possible suspension of their Motor Vehicle Business License.

Questions regarding these laws or guidelines should be directed to:

Secretary of State  
Auto Dealer Services Division  
302 West Washington St., Rm. E-018  
Indianapolis, IN 46204  
(317) 234-7190