

## ***“BUYER’S REMORSE” or “COOLING OFF” RULE***

Customer attempts to back out of vehicle sales have prompted dealer questions regarding the Federal Trade Commission’s “Cooling Off Rule”.

- **“Cooling Off” Rule Does Not Apply to Sales at Dealerships**

The FTC rule, which allows a period of three (3) days during which time a consumer may cancel a purchase, relates only to

1. home solicitation sales; or
2. sales that occur in a location other than the seller’s regular place of business.

When visiting the dealership, the customer initiates the sale and the Cooling Off Rule does not apply. The signed documents that complete the sale are binding, and the customer may not return the vehicle for a refund because he changed his mind. The Cooling Off Rule also does not apply to organized, off-premise sales (i.e. tent sales, auto shows), which are considered extensions of the dealer’s permanent place of business.

- **FTC Rule Does Not Apply to Internet Sales**

The FTC issued an opinion in 2004 that the Cooling Off Rule does not apply to certain transactions that are initiated and fully-negotiated and concluded by consumers over the Internet. Even if the dealer has a delivery driver obtain the buyer’s signature at the buyer’s residence, the rule would not be triggered. However, if the driver performs other functions, such as continuing the Internet negotiations or selling additional products or services, the rule would apply.

- **Restrictions on Taking Vehicles Back**

Some dealers have adopted right-of-return policies for pre-owned vehicles. Any return policy should be clearly defined (i.e. three business days, 72 hours) and uniformly applied. If a dealer agrees to take a vehicle back, because a right-of-return offer has been extended or simply to accommodate a dissatisfied customer, the following procedures apply:

- ▶ After all of the paperwork has been signed, BMV considers the sale to be complete and title and registration fees are nonrefundable. However, excise tax is transferable from vehicle to like vehicle.
- ▶ If the title work was already submitted and sales tax paid, a refund may be requested. Depending on the situation, either the customer or the dealer can apply for the refund from the Department of Revenue. (For information on sales tax refunds, contact the IDOR Sales Tax Compliance Section at 317.232.2339.) In lieu of a sales tax refund, a customer could trade the vehicle in and be given trade-in credit for another vehicle purchased from the dealer’s inventory.
- ▶ A customer’s deposit is nonrefundable only if: the specific dollar amount the dealer will retain is listed on the sales contract; the clause is clear and conspicuous; and the customer has read and initialed it. The dealer may wish to hold any deposit refund owed to the customer until any follow-up issues are resolved that require the customer’s assistance.