

NJ MVC Ups Enforcement for Alleged Misuse of Dealer Plate Logs by Dealers



CONFUSION REGARDING AMENDMENTS

New Jersey Motor Vehicle Commission (MVC) investigators have stepped up enforcement against new and used car dealers in connection with the log dealers are required to maintain that identifies how state issued dealer license plates are used. In some instances investigators are improperly issuing warnings and Notices of Proposed Fines and or Suspensions to dealers for allegedly improperly maintaining dealer plate logs.

Dealers have been cited because their plate logs may not contain by plate number:

- VINs to which a vehicle is assigned.
- Dates of assignment and a location where each vehicle is garaged.

Investigators have instructed some dealers this requirement exists for all dealer plates, regardless of how the vehicle is

being used. We do not believe this is an accurate statement of the law or published MVC policy positions.

At the November 19, 2013, public meeting of the MVC Board, certain regulations were approved concerning used car dealer licenses for re-adoption with amendments, N.J.A.C. 13:21. The document that was approved for publication included the following with regard to the Dealer Plate section:

"[t]he language to be added to N.J.A.C. 13:21-15.11(a)(4) is, 'for any dealer plate not assigned to a vehicle, the log shall list such plate number and indicate that it is available for general demonstrator usage.' With regard to dealer plates that are 'permanently' assigned to owners, family members, employees, etc., those plates are already required to be entered into the electronic or written record with detailed vehicle specific information;

the only exception is one being created for non-assigned dealer plates that are used for demonstration purposes."

When the MVC's Responses to Public Comments were published in the New Jersey Register, however, the official response was substantively different than what was approved for publication. Specifically, the published agency response did not include the language that was approved for publication and instead stated:

"[t]he Commission has never required dealer plates that are not assigned to a particular vehicle to be entered into an accounting system and it does not plan to change that policy with the adoption of this rulemaking. With regard to dealer plates that are 'permanently' assigned to owners, family members and police, etc., those plates are already required

to be entered into the electronic written record with detailed vehicles specific information, as in the existing rule."

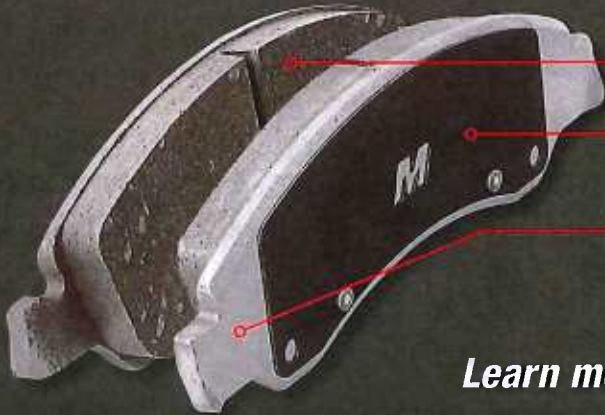
The fact that the published Responses are different than what was approved for publication is problematic, as the MVC appears to have made more than just a simple grammatical change. Arguably, the MVC's published comments could be considered improper rulemaking, as it did not appear to have followed necessary procedures. Regardless, the level of detail currently sought by the MVC when conducting its compliance reviews of the dealer plate logs exceeds its authority under both the MVC's approved responses and published responses concerning this section of the administrative code as re-adopted and amended in November 2013.

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Motor Vehicle Commission News

NEXT STEPS

We requested that the Commission clarify its current interpretation, i.e. advise whether it intends to adhere to the standard approved for publication in November 2013, the standard that was in fact published in April 2014, or if it intends to promulgate an amendment to the existing regulations. We are optimistic the MVC will take the steps necessary to ensure its investigators are adhering to the law and dealers are not improperly warned of nonexistent violations, threatened with a fine or actually fined for non-existent regulatory violations.

WHAT SHOULD DEALERS DO

At this time, we recommend all dealers include the specific information for all permanently assigned plates, as detailed above. With regard to those plates not permanently assigned to a vehicle, dealers should list such plate numbers and indicate they are available for general demonstrator use. 🚗

LEGAL NEWS

NJ Man Gets Seven Years for Defrauding Auction

FRAUDULENT CHECKS TOTALED \$339,782

A Newark, N.J., man was sentenced to state prison for using false identities and nearly \$340,000 in counterfeit or bad checks to buy 19 cars from an online auto auction company.

Keith L. Hutcheson Jr. was sentenced to seven years in state prison after pleading to second-degree theft by deception and third-degree forgery. Hutcheson was required to enter a civil consent judgment to pay \$212,000 in restitution to the auto auction company, Copart Inc. The company previously recovered a number of the vehicles, which reduced the amount of restitution owed.

The case was referred to the Attorney General's Office by the New Jersey Motor Vehicle Commission, which received a complaint from Copart.

The state's investigation revealed that from September through December 2013, Hutcheson used the aliases of "Mark Hooper" and "Bassem Wallace" to purchase 19 cars online from Copart.com, including seven Mercedes Benz vehicles, a Porsche and a BMW. He paid for the cars with counterfeit or bad checks totaling \$339,782, including a check for \$199,023 for multiple vehicles that purportedly was issued by a car dealership.

Many of the cars were salvage or storm-damaged vehicles. Hutcheson arranged for the vehicles to be transported to New Jersey, where he resold a number of them in cash sales to unsuspecting buyers.

Hutcheson was arrested by detectives of the Division of Criminal Justice on May 13, 2014, on charges of theft by deception and identity theft. 🚗

INDUSTRY NEWS

AutoMule.com Launched on March 1

INVENTORY LISTING SITE WITH BIG DISCOUNTS TO NJIADA MEMBERS

Automule.com, a premier automotive listing directory at affordable pricing, launched March 1, 2015. Built by dealers for dealers, automule.com plans on transforming the way in which cars are sold online.

Automule.com is a collaboration born from the expertise of dealers who understand the unique challenges of other dealers, while keeping at the forefront a car buyer's need for control over their shopping experience. The site has comprehensive pricing information, dealer reviews, comparison tools, photo galleries, videos and a large selection of new and used car inventory.

NJIADA members receive a discount. To learn more, visit www.automule.com or contact Sal Enea at 201-321-9625. 🚗

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