

SECTION V

LEGAL SECTIONS

KNOW YOUR LEGAL RIGHTS

If you or someone employed at your place of business becomes the subject of an official complaint with the DMV or legal action in a court of law, you should be aware of your legal rights as a dealer. Knowing your options and possible penalties is vital. In addition to the legal action someone can take against you in a court of law, a complaint can also be made against you with the DMV. In this case, the DMV will review the complaint and may begin an administrative process. Violation of criminal law will be forwarded to the appropriate law enforcement agency. Complaints might not result in a lawsuit, but can still cost you time, money, and legal fees. You should be aware that if you are found guilty or there is a department finding of wrongdoing, your dealer or wholesaler license could be denied, cancelled, suspended, or even revoked.

DEALER SANCTIONS

The Department of Motor Vehicles (DMV) has established uniform guidelines for the application and administration of sanctions for dealers, wholesalers, and wholesale motor vehicle auctions that violate rules, regulations, policy, or law. Violations fall into two categories: compliance and performance.

A compliance violation refers to failing to maintain minimum statutory requirements (bona fide established place of business, bond, insurance, facility, sign, lot, etc.) required of a dealer, wholesaler, or wholesale motor vehicle auction license. A compliance violation will result in the cancellation (indefinite suspension) of the dealer license. If a dealer license is cancelled, it will be reinstated as soon as the DMV is satisfied that the violation or deficiency is corrected. In order to be reinstated, the licensee must comply with the requirements noted in the cancellation letter and completion of a successful audit and/or re-inspection may be required depending on the type of compliance violation.

A performance violation refers to a breach of state statute related to dealer, wholesaler, or wholesale motor vehicle auction operations. The DMV has established a point system for performance violations to evaluate the operational record of a dealer, wholesaler, or wholesale motor vehicle auction. (See the next page for specific performance violations and their assigned point value.) Serious performance violations may result in the immediate suspension or revocation of a dealer license without the assessment of any points.

The DMV will suspend, for a period of 7 days, the license of any dealer, wholesaler, or wholesale motor vehicle auction that accumulates 12 points. A second accumulation of 12 points within a three year period from the end date of the prior suspension will result in a 30 day suspension. On the third accumulation of 12 points within a three year period from the end date of the first suspension, the DMV will revoke the dealer, wholesaler, or wholesale motor vehicle auction license. Points used towards a suspension, won't be used in future accumulation of points.

In computing the total number of points for violations committed, violations will be counted at their assigned value for 12 months after being posted to the dealer's record and at one half their assigned value from 12 to 24 months from being posted to the dealers record. Points resulting from violations which occurred more than 24 months from being posted to the dealer's record will not be counted.

Conversion of existing sanction to points - When a dealer incurs the first sanction under the new policy after August 1, 2009, the highest level of warning issued within the past two years that was not followed by a suspension will be converted to points with a posting date matching the warning date:

Verbal Warning	-	Converted to 2 points
Level One Written Warning	-	Converted to 4 points
Level Two Written Warning	-	Converted to 6 points

Only the highest warning received by a dealer will be converted to points. A dealer with a verbal, level one, and level two warnings will only receive the 6 points for the level two warning and the other warnings would not be converted.

DEALER PERFORMANCE VIOLATIONS

Performance Violation Description:	Sanction
Court Dispositions: (Any court finding includes criminal and civil courts)	
Conviction involving the theft or possession of a stolen vehicle	Revocation
Conviction involving the tampering with, altering, or removing VIN	Revocation
Any court finding of any law violation regarding vehicle odometers	Revocation
Any court finding of any fraud connected to sale or transfer of vehicle	6 points to Revocation
Conviction involving acquisition or transfer of a title to a vehicle	6 points to Revocation
Department Finding: (As result of investigation, audit, or other inquiry)	
Offering for sale or sale of vehicles while license is suspended	Revocation
Employment of fraudulent devices, methods, or practices	6 points to Revocation
Engaging in any action which causes damage to any party	6 points to Revocation
Selling out of trust	6 points to Revocation
Refusal to allow inspection of records by DMV agent	6 points to Revocation
Wholesaler selling retail	6 points to Revocation
Dealer or auction facilitating wholesaler selling retail	6 points
Possession of an Open Title	6 points
Altering or changing documents to avoid or delay registration (includes multiple bills of sale)	6 points
Issuing a second temporary plate to a purchaser prior to vehicle being registered	6 points
Fraudulent records (includes falsification of records to justify dealer plates)	6 points

DEALER PERFORMANCE VIOLATIONS

Performance Violation Description (continued):	Sanction
Department Finding: (As result of investigation, audit, or other inquiry)	(continued)
Improper use of a dealer temporary plate	4 points
Records not available upon demand of the Department	4 points
Exhibiting vehicles at address different than licensed location	4 points
Willful failure to deliver title to buyer or department within 45 days of sale	4 points
Failure to return certificate of title for junked vehicle to the Department	4 points
Misuse of dealer or wholesale motor vehicle auction plate	4 points
Unable to account for dealer or wholesale motor vehicle auction plate	4 points
Operation of a vehicle in dealer's control with no valid vehicle license	4 points
Other Records Violations (see next page)	2 points to Revocation
Other dealer violation not otherwise specified	2 points

OTHER RECORD VIOLATIONS

Other Records Violations (ORV) include, but are not limited to, errors or omissions on transactions regarding incoming or outgoing document(s) (title/bill of sale), including acquisition or sale dates, vehicle identification number, make, model, type of body, incoming or outgoing odometer readings, or correct name and address of person vehicle acquired from and transferred to. Fraudulent records are not considered simple errors or omissions and carry the heavier penalties listed on the previous page.

An excessive Other Records Violation is considered any violation in excess of 1% of the dealer's transactions (sales) completed in the department's database (Phoenix) during the previous year or ten Other Records Violations, whichever is less. The purpose of this provision is to take into account the dealer's sales volume to South Carolina consumers when considering simple errors or omissions in records.

Other Records Violations are tracked throughout the dealer's license year and may accumulate from audits or compliant investigations. Errors or omissions detected during the quality assurance inspections for the Electronic Vehicle Registration (EVR) program fall under the EVR Sanction Policy and are not counted as Other Records Violations in the assessment of points below. Other Records Violations from a previous license year will not count towards the accumulation of Other Records Violations in the dealer's current license year.

Performance Violation Description:	Sanction
Department Finding: (As result of investigation or audit)	
1 st excessive Other Records Violation during the dealer's license year	2 points
5 th excessive Other Records Violation during the dealer's license year	2 points
9 th excessive Other Records Violation during the dealer's license year	2 points
13 th excessive Other Records Violation during the dealer's license year	Suspension
25 th excessive Other Records Violation during the dealer's license year	Revocation

EXAMPLES

A Dealer has the following sanctions against the dealer license on August 1, 2009 at time sanction history is converted:

Warning Date	Violation	Original Sanction	08/01/2009 Point Value	06/14/2010 Point Value
09/18/2005	Failure to Deliver Title (Higher warning on 08/01/2009 present)	Verbal Warning	0	0
02/16/2007	Failure to Deliver Title (Higher warning on 08/01/2009 present)	Level I Warning	0	0
06/14/2009	Failure to Deliver Title (Highest warning on 08/01/2009)	Level II Warning	6	3
TOTAL POINTS:			6	3

The dealer then has another violation for Failure to Deliver Title within 45 days of sale posted on the dealer record September 15, 2009:

Date	Violation	09/15/2009 Point Value	09/15/2010 Point Value	09/15/2011 Point Value
09/18/2005	Failure to Deliver Title (Higher warning on 08/01/2009 present)	0	0	0
02/16/2007	Failure to Deliver Title (Higher warning on 08/01/2009 present)	0	0	0
06/14/2009	Failure to Deliver Title (Highest warning on 08/01/2009)	6	3	0
09/15/2009	Failure to Deliver Title	4	2	0
TOTAL POINTS:		10	5	0

ADMINISTRATIVE HEARINGS

If your dealer or wholesaler license is denied, suspended or revoked by the DMV, you have the right to contest the action by requesting an administrative hearing. The DMV will notify you in writing at your business or special mailing address of any intention to deny, suspend, or revoke your license at least 20 days prior to the date of the action. Within 10 days of receiving notice from the DMV, you may make a written request for a hearing. Your request for a hearing must be mailed to the address below along with a \$150 non-refundable filing fee.

**Office of Motor Vehicle Hearings
S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton Street, Suite 325
Columbia, SC 29201
(803) 734-3201**

The Office of Motor Vehicle Hearings has a similar name to the DMV, but is a separate agency administered by the Administrative Law Court to review these and other DMV actions.

If your dealer license is being cancelled due to a compliance violation (failing to maintain minimum statutory requirements such as bona fide established place of business, bond, insurance, facility, sign, lot, etc.), the cancellation will be rescinded upon satisfactory proof of compliance regardless of whether a hearing has been requested. In these cases, you would not need to request a hearing for re-instatement unless you were in disagreement with the compliance violation.

If you contest the DMV's decision, your sanction will be stayed pending the outcome of the hearing where the Hearing Officer will make a determination of whether the denial, suspension, or revocation is lawful. The Hearing Officer will either sustain or dismiss the pending action based on the above determination and has no authority to reduce the suspension or revocation period imposed by the DMV.

You may contact the Office of Motor Vehicle Hearings at the above address or telephone number with any questions regarding their proceedings. The Office of Motor Vehicle Hearings also has their official rules and procedures available on their website at <http://www.scdmvh.net>

SECTIONS OF LAW REGULATING S.C. DEALERS

If you wish to review the laws as they are written, you may do so by visiting www.scdmvonline.com and clicking on "Links," followed by "S.C. Code of Laws" under the "State Links" heading.

1. Section 56-15-10 through 56-15-450, of the S.C. Code of Laws provides for the regulation and license of vehicle dealers and wholesalers.
2. Section 56-3-2320 of the S.C. Code of Laws provides for the issue and use of dealer and wholesaler plates.
3. Sections 56-16-10 through 56-16-210 of the S.C. Code of Laws provide for the regulation of motorcycle manufacturers, distributors, dealers and wholesalers.
4. Sections 56-15-510 through 56-15-600 of the S.C. Code of Laws provide for the regulation and license of wholesale motor vehicle auctions.
5. Section 56-3-2350 of the S.C. Code of Laws provides for the regulation and license of motor vehicle transporters.
6. Sections 56-10-10 through 56-10-20 of the S.C. Code of Laws provide for requirements for garage liability insurance.
7. Section 56-3-210 of the S.C. Code of Laws provides for regulations for the issuance of temporary tags.
8. Section 31-17-510 through 31-17-580 of the S.C. Code of Laws provides for the regulation and license of travel trailer dealers.

As a dealer, wholesaler, or wholesale motor vehicle auction, you should be aware of the laws and requirements affecting you, your manufacturer or distributor and your customers. These laws are meant to protect all parties involved in a motor vehicle transaction.