



Oregon

John A. Kitzhaber, M.D., Governor

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DATE: April 10, 2013

TO: Senate Committee on General Government,
Consumer and Small Business Protection

FROM: Amy Joyce, Legislative Liaison

SUBJECT: SB 615

INTRODUCTION

SB 615 would prohibit the Department of Transportation, Driver and Motor Vehicle Services Division (DMV) from imposing a civil penalty on a vehicle dealer for a specific violation of law. DMV has an extensive matrix controlling maximum penalties allowed. Imposition of this penalty is extremely rare.

DISCUSSION

Vehicle dealers are required to notify DMV when they sell a vehicle. This notice helps track ownership of vehicles. The law provides benefit to the seller by releasing it from certain civil liabilities if the new owner fails to transfer title and commits an offense in that vehicle.

It is a relatively frequent occurrence that in a routine inspection / audit by DMV a dealer is found to have failed to submit a form on one vehicle out of the many that they sell over time. The response from DMV is to educate the dealer. DMV has been able to find only one case in which it sent a notice assessing a civil penalty for this specific type of violation as well as others. The dealer had violated this provision, and had been warned, multiple times. In the end the civil penalty for this specific violation was removed, and the total civil penalty for all offenses was reduced by nearly 80%, with further education also being required.

DMV has detailed administrative rules creating a matrix of penalties for dealer violations. Factors include severity of offense and impact on the public, whether the offense was willful or intentional, number of similar violations, and the whole history of that individual's or dealership's warnings, sanctions, and penalties. The program manager has authority to reduce from the maximums set in the rule. And the Oregon Dealer Advisory Committee, and group of industry representatives, reviews and makes recommendations on every violation decision.

Finally, a range of sanctions for an offense is often better than a single sanction. Removal of the ability to assess a civil penalty will mean the only sanction available for this offense is to cancel the person's license. Some may believe that DMV would be unlikely to use this sanction for this type of offense—which may well be true. A requirement without a viable sanction may be ignored.

SUMMARY

DMV very rarely has imposed the sanction the bill proposes to prohibit. DMV's Business Regulations program self-regulates with a matrix of sanctions in administrative rule, and is advised by a group of owners and operators from the regulated industries. sb