



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Director's Office
355 Capitol St. NE
Salem, OR 97301

DATE: May 22, 2013
TO: House Committee on Transportation and Economic Development
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. Imposition of this penalty is extremely rare, but it remains important for vehicle dealers to submit the information.

DISCUSSION

Under existing law individuals and vehicle dealers are required to notify DMV when they sell a vehicle. There are several benefits to the requirement. One benefit is to the seller by releasing that entity from certain civil liabilities if the buyer fails to transfer title and commits an offense in that vehicle.

Another benefit is the assistance it provides to DMV's Business Regulations section in identifying potential unlicensed dealers. The sale of many vehicles to one individual may be investigated to determine if that person is selling cars without a license. DMV is aware of several cases in which a private party sold a vehicle to a dealership assuming the paperwork would be completed by the dealership, but the vehicle was sold again without the proper paperwork. In those cases the subsequent purchaser committed an offense and the original seller was identified as the offender.

Finally, law enforcement benefits from the notification. An officer can see the indication on a vehicle record that it has been sold, which may assist when questioning stopped motorists about why the vehicle they are operating is registered to someone else.

It is a relatively frequent occurrence that in a routine inspection / audit by DMV a dealer is found to have failed to notify DMV of one vehicle out of the many 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. The dealer had violated this provision and been warned multiple times. He also had several other types of violations. 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 in determining the penalties 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

May 22, 2013

House Committee on Transportation and Economic Development

Page 2

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

The requirement to notify DMV of a vehicle sale is important for many reasons. Dealers, as well as individuals, are required to do so. DMV very rarely has imposed the sanction the bill proposes to prohibit. DMV's Business Regulations program self-regulates how it sanctions dealers with a matrix in administrative rule, and is advised by a group of owners and operators from the regulated industries.