



# Oregon

Kate Brown, Governor

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**DATE:** May 24, 2017

**TO:** Senate Committee on Business and Transportation

**FROM:** Amy Joyce, Legislative Liaison

**SUBJECT:** HB 2975-A, claims against vehicle dealer bonds

## INTRODUCTION

House Bill 2975-A provides courts an option to award damages to retail customers of vehicle dealers who violate certain provisions of the vehicle code.

## DISCUSSION

The Oregon Department of Transportation, through the Business Regulation section of the Driver and Motor Vehicles Services Division (DMV), regulates vehicle dealers in Oregon. Oversight includes inspecting and investigating dealer compliance with the Oregon Vehicle Code and Administrative Rules. DMV has authority to sanction dealers who violate the requirements. Sanctions include warnings, suspension or revocation of the certificate to do business, and civil monetary penalties.

The statutorily-created Oregon Dealer Advisory Committee reviews all penalties proposed by DMV to ensure the proper level of accountability or punishment, and consistency across similarly-situated offenders. While DMV can sanction the dealer, HB 2975-A gives the courts an additional tool to compensate consumers when dealers violate the vehicle code.

One requirement to hold a dealer certificate is maintaining an adequate surety bond. DMV enforces the requirement to be bonded, but is not involved when consumers make claims made against the bond. Those are handled by the private bond-issuance firm, and DMV is not required to be notified when a bond claim is filed.

DMV's role in consumer complaints of this sort arise in two primary ways. One occurs when an individual asserts they have the right to a vehicle title from a certified dealer but the dealer has not provided it to them as required. In this case, DMV can assess civil penalties and sanction the dealer.

The second way a claim arises is when a dealer goes out of business and may leave multiple customers, as well as vendors, lien-holders and others without that which they are legally entitled to have. In the current economy, DMV usually receives about 5-10 transactions per week under this scenario. If a larger dealer suddenly goes out of business DMV may receive 50 or more claims in a day. The same type of proof issues arise when a dealer goes out of business: there must be adequate evidence that the claimant has the legal right to the title, or the vehicle, or the money. Complicating the matter is that the dealer is no longer in business, and may be nowhere to be found. DMV can suspend the certificate and assess civil penalties. Often in these situations, the multiple claimants mean the bond is quickly depleted and there may be no assets to pursue.

In 2016, DMV's Business Regulation section received 644 complaints and issued 139 civil penalties/sanctions. Thus far in 2017, DMV has received 181 complaints and has issued 51 civil penalties/sanctions.

After receiving a request for investigation, DMV inspects and audits the dealer's records. Where appropriate, DMV works with the dealer and the customer to resolve their complaint. These can be difficult cases because there may be two different sides to the story, and to be able to assist (or penalize the dealer) there must be adequate evidence that the dealer has violated the law. When the case can be resolved relatively quickly (less than 90 days) and it is a first violation by that dealer, DMV will issue a warning. If over 90 days, or a repeat issue, DMV generally assesses a civil penalty of \$1000. In the few cases where DMV is unable to resolve a complaint due to legal restrictions, the complainant is notified and provided with other options they can pursue, but even in these cases, DMV still takes appropriate action against the dealer.

DMV assists customers who reach out to complain about their situation. Business Regulation staff work with customers, security interest holders, and bond companies to provide information on the process, obtain releases of interest, and issue title. Some cases take many months to complete, and not all transactions can be completed in the manner the complainant seeks. DMV cannot resolve some title disputes and those are left to the courts to decide.

The bond is the statutorily required method for protecting consumers and others. To some extent, it may be the only practical way to obtain resolution. If a consumer is at the point of pursuing the bond the dealer may be out of business, or soon will be. It is our understanding that when a bond company pays on a bond claim, the company will usually cancel the bond and the dealer is thereby put out of business.

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## **SUMMARY**

DMV's Business Regulation section regulates dealers, investigates customer claims of dealer wrong-doing, and assists customers in their efforts to get a title they are appropriately owed by an Oregon dealer. DMV can and does assess monetary penalties on dealers who do not abide by the law. And in serious cases DMV can remove a dealer's ability to conduct business. The bond may not be adequate to cover all claims, particularly when a dealer goes out of business. As a practical matter, there may be no dealer assets to pursue once the bond is exhausted. HB 2975-A provides an avenue of compensation for consumers who are wronged by vehicle dealers.