

Motor Vehicle Dealer Board

PROCESS FOR DETERMINING SANCTIONS

Adopted July 1999

For alleged violations that could lead to a denial, suspension or revocation as provided in Va. Code § 46.2-1575, (See below.) the Motor Vehicle Dealer Board will follow the process as outlined under Sections A and B of these guidelines.

1. Material misstatement or omission in application for license, dealer's license plates, certificate of dealer registration, certificate of qualification, or certificate of title;
2. Failure to comply subsequent to receipt of a written warning from the Department or the Board or any willful failure to comply with any provision of this chapter or any regulation promulgated by the Commissioner or the Board under this chapter;
3. Failure to have an established place of business as defined in § 46.2-1510 or failure to have as the dealer-operator an individual who holds a valid certificate of qualification;
4. Defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business;
5. Employment of fraudulent devices, methods or practices in connection with compliance with the requirements under the statutes of the Commonwealth with respect to the retaking of vehicles under retail installment contracts and the redemption and resale of those vehicles;
6. Having used deceptive acts or practices;
7. Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive in any particular relating to the conduct of the business licensed or registered or for which a license or registration is sought;
8. Having been convicted of any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud;
9. Having been convicted of any criminal act involving the business of selling vehicles;
10. Willfully retaining in his possession title to a motor vehicle that has not been completely and legally assigned to him;
11. Failure to comply with any provision of Chapter 4.1 (§ 36-85.2 et seq.) of Title 36 or any regulation promulgated pursuant to that chapter;
12. Leasing, renting, lending, or otherwise allowing the use of a dealer's license plate by persons not specifically authorized under this title;
13. Having been convicted of a felony;
14. Failure to submit to the Department, within thirty days from the date of sale, any application, tax, or fee collected for the Department on behalf of a buyer;
15. Having been convicted of larceny of a vehicle or receipt or sale of a stolen vehicle;
16. Having been convicted of odometer tampering or any related violation;
17. If a salvage dealer, salvage pool, or rebuilder, failing to comply with any provision of Chapter 16 (§ 46.2-1600 et seq.) of this title or any regulation promulgated by the Commissioner under that chapter; or
18. Failing to maintain automobile liability insurance, issued by a company licensed to do business in the Commonwealth, or a certificate of self-insurance as defined in § 46.2-368, with respect to each dealer's license plate issued to the dealer by the Department.

SECTION A
DENIAL OF AN APPLICATION FOR
A LICENSE, CERTIFICATE OR REGISTRATION
UNDER SECTION 46.2-1514,

If the Office Manager (OM), in reviewing an application, believes there is basis to deny the application, the OM shall report such basis to the Executive Director (ED). If the ED agrees with the OM, a letter will be sent to the applicant by the ED stating there is a basis to deny the application; however, the applicant has the right to an informal fact finding conference or he/she may waive their right to a conference and request a formal hearing.

If the applicant chooses to have a conference, a hearing officer will conduct the conference and make a recommendation to the ED. The applicant will receive a copy of the recommendation. The ED will then send a letter to the applicant informing the applicant of the determination made by the ED. If the ED grants a license, a copy of the hearing officer's report and a copy of the letter sent to the applicant will be sent to all Board members.

If the applicant waives his right to an informal fact finding conference or appeals the determination made by the ED following the informal conference, then the hearing officer will schedule a formal hearing and make a recommendation to the Board. The applicant will receive a copy of the recommendation. Once the Board makes its determination the ED will inform the applicant in writing of the Board's determination. The letter will inform the applicant that they may appeal the decision to Circuit Court.

SECTION B
SUSPENSION OR REVOCATION OF A
CERTIFICATE, REGISTRATION OR LICENSE UNDER
SECTION 46.2-1575

If evidence indicates that a licensee of the Board appears to have committed a violation that could result in the denial, suspension or revocation of a certificate, registration or license, the ED shall send a letter to the licensee outlining the allegations. The letter will state that a hearing officer will be in contact in order to schedule an informal fact finding conference. The letter will also note that the licensee may waive their right to a conference and move ahead by scheduling a formal hearing.

If the licensee requests an informal conference, a hearing officer will conduct the conference and make a recommendation to the ED. The applicant will receive a copy of the recommendation. The ED will then send a letter to the applicant, informing the applicant of the determination made by the ED. A copy of this letter and the hearing officer's report will be sent to all Board members.

If the applicant waives his right to an informal fact finding conference or appeals the determination made by the ED following the informal conference, a hearing officer will schedule a formal hearing and make a recommendation to the Board. The applicant will receive a copy of the recommendation. Once the Board makes its determination the ED will inform the applicant in writing of the Board's determination. The letter will inform the applicant that they may appeal the decision to Circuit Court.

For alleged violations of the Motor Vehicle Dealer Act (Chapter 15 of Title 46.2 of the Code of Virginia), which could lead to the imposition of civil penalties the Motor Vehicle Dealer Board will follow the process a outlined under Sections C and D below.

**SECTION C
VIOLATIONS OF ARTICLE 9. DEALER ADVERTISING AND
SECTION 46.2-1533, BUSINESS HOURS**

The ED will determine the level of civil penalty which may be imposed. A letter will be sent to the dealer. The letter will clearly state that the dealer has the right to an informal fact finding conference, however, he may waive that right by paying the civil penalty.

If the dealer requests an informal conference, a hearing officer will conduct the conference and make a recommendation to the Board. The dealer will receive a copy of the recommendation. Once the Board makes its determination the ED will inform the dealer in writing of the Board's determination. The letter will inform the dealer that they may appeal the decision to Circuit Court.

**SECTION D:
VIOLATIONS OF THE MOTOR VEHICLE DEALER ACT (CHAPTER 15
OF TITLE 46.2 OF THE CODE OF VIRGINIA) WHERE THE ED DOES
NOT DETERMINE THE LEVEL OF CIVIL PENALTY PRIOR TO AN
INFORMAL FACT FINDING CONFERENCE**

If evidence indicates that a licensee of the Board appears to have committed a violation that could result in the assessment of a civil penalty (other than for advertising or minimum business hours) the ED shall send a letter to the licensee outlining the allegations. The letter will state that a hearing officer will be in contact in order to schedule an informal fact finding conference. The letter will also note that if the licensee fails to respond or fails to appear at the conference, the conference will be held in his absence.

If the licensee requests an informal conference, the hearing officer will conduct the conference and make a recommendation to the Board. The applicant will receive a copy of the recommendation. Once the Board makes its determination the ED will inform the applicant in writing of the Board's determination. The letter will inform the applicant that they may appeal the decision to Circuit Court.