

## Enforcement – Motor Vehicle Dealers – Disciplinary Matrix

The Texas Department of Motor Vehicles provides free and abundant informational resources to the Department's licensees with the intention of assisting licensees, new and old, to operate a successful and law-abiding business. Since September 2021, independent motor vehicle dealers have been required to take a dealer education course to obtain a new license or to renew an existing license. The Department also offers a monthly interactive Dealer Training Seminar where attendees can ask Department staff questions about how to operate their business. In addition, the Department provides a Motor Vehicle Dealer's Manual, a Title Manual, webDEALER training, and other written material that licensees can download and reference at their convenience.

When the Department receives a complaint against a licensee, that complaint is investigated and may be referred to an attorney for further disciplinary action. Section 2301.001 of the Texas Occupations Code gives the Department broad authority to regulate the distribution and sale of motor vehicles in the State. Texas Occupations Code § 2301.801 allows for a civil penalty of up to \$10,000 for each violation, or per day for a continuing violation, of Chapter 2301. Texas Transportation Code § 503.095 allows for a civil penalty of up to \$1,000 for each violation, or per day for a continuing violation, of Texas Transportation Code Ch. 503. The Department may also revoke a license for a violation under Section 2301.651 of the Texas Occupations Code.

This Disciplinary Matrix is intended to give licensees an idea of the types of sanctions that may be assessed against them for the most common violations encountered by the Department. **This Matrix does not contain all possible violations and does not serve as a limit on what sanctions the Department may seek in any particular case. The only limit on the sanctions that the Department may seek against a dealer are found in the Texas Occupations Code and Texas Transportation Code sections mentioned above.**

### Aggravating and Mitigating Factors

In determining the amount of civil penalty to assess, the Department will consider the following aggravating factors:

- The seriousness of the violation(s), including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;
- The economic damage to the public caused by the violation(s);
- Any history of previous violations including whether the licensee previously entered into an Agreed Order with the Department or otherwise received a warning or reduced penalty;
- The amount necessary to deter a future violation; and
- Any other matter that justice may require, to include:
  - The number of violations or number of consumers harmed by violation(s);
  - Whether the consumer received their title;
  - Whether the licensee misused any temporary tags;
  - Attempted concealment of any violations;
  - Intentional, premeditated, knowing or grossly negligent act constituting a violation; and
  - Whether there was a violation of an order issued by the Department.

In determining whether revocation is appropriate, the Department will consider the following factors:

- Whether the licensee is unfit under standards governing the occupation, including the

qualifications for a license;

- Whether the licensee made a material misrepresentation in any information filed according to the Department's statutes or rules;
- Whether the licensee willfully defrauded a purchaser;
- Whether the licensee misused temporary tags including whether the licensee attempted to use an internet-down tag to avoid inspection requirements; and
- Whether the licensee failed to fulfill a written agreement with a retail purchaser of a motor vehicle.

In determining the amount of civil penalty to assess, or whether revocation is appropriate, the Department will consider the following mitigating factors:

- Acknowledgement by the licensee of any wrongdoing;
- Willingness to cooperate with the Department; and
- Efforts to correct the violation(s).

In any event, failure to attend an approved Dealer Training Seminar as ordered by Agreed Order may result in a \$10,000 civil penalty and will be a consideration in determining whether revocation is appropriate.

Violation	Low Sanction	High Sanction
<b>Advertising</b>		
TEX. OCC. CODE § 2301.456 43 TEX. ADMIN. CODE CH. 215, SUBCH. H §§ 215.241-.271		
Advertising -- After previous Cure Letter for same violation	\$4,000	\$8,000
<b>Fraud</b>		
TEX. OCC. CODE § 2301.651(a)(6) TEX. TRANSP. CODE § 503.038(a)(1)-(2) TITLE 49 U. S. C. § 32704 43 TEX. ADMIN. CODE § 215.141(b)(19), (21)		
Willfully defrauded consumer	\$1,000	Revocation
Falsification/Forgery of tax or title document	\$1,000	Revocation
Filing false tax or title document	\$1,000	Revocation
Dehorsing	\$2,000	Revocation
Misrepresenting mileage	\$2,000	Revocation
Failure to properly notify of replaced odometer (with evidence of intent to defraud)	\$1,000	\$4,000
Asserted false lien	\$1,000	Revocation
Failed to pay Consignor	\$1,000	\$4,000
False statements to Department on application	\$1,000	Revocation
Falsify or forge a title document	\$1,000	Revocation
Filed false statement of sales price in title application	\$1,000	\$4,000
Filed false statement of sales date in title application	\$1,000	\$4,000
Filed false statement of GDN in title application	\$1,000	\$4,000
False VIT statements	\$1,000	Revocation
<b>Unlicensed Activity</b>		
TEX. OCC. CODE §§ 2301.006, 2301.251, 2301.252, 2301.253, 2301.351, and 2301.362(a) TEX. TRANSP. CODE §§ 503.021, 503.022, 503.027, and 503.038(a)(11) 43 TEX. ADMIN. CODE §§ 215.136, 215.140(11)(C), 215.141(b)(6), (20), and (23), and 217.183		
Brokering new or used vehicles	\$1,000	\$4,000
Curbstoning by unlicensed dealer	\$1,000 per vehicle and/or referral to local law enforcement.	\$4,000 per vehicle
Curbstoning by licensed dealer	\$1,000 per vehicle	\$4,000 per vehicle
Aiding and abetting unlicensed sales/brokering	\$1,000	\$4,000
Allowed use of GDN	\$1,000	Revocation
Aided and abetted unlicensed sales	\$1,000	4,000
Selling new vehicles without license	\$1,000 per vehicle	\$Revocation

Selling type of vehicle without appropriate type license	\$1,000 per vehicle	Revocation
Operating as a wholesale auction without a license	\$2,000 per vehicle	\$8,000
Illegal sales of salvage vehicles by GDN holder	\$1,000 per vehicle	Revocation
Advertising as a lessor without a license	Warning Letter	\$4,000
Operating as a lessor or lease facilitator without a license	\$500	\$2,000
Operating as a manufacturer or distributor without a license	\$5,000	Referral to OAG
Selling from right-of-way	\$500 per vehicle	\$2,000
Unlicensed Converter	Warning Letter	\$1,000 per vehicle
<b>Lienholder Violations</b>		
TEX. TRANSP. CODE § 501.115(a) TEX. FIN. CODE § 348.408(c)		
Failed to release lien within 10 days of payment	\$1,000	\$4,000
Failure to timely forward payoff for trade-in	\$500	\$2,000
<b>Agent Violations</b>		
43 TEX. ADMIN. CODE § 215.148		
Use of unauthorized agents	\$1,000	\$2,000
Failure to verify authority of agents	\$2,000	\$4,000
Failed to have record of agents and representatives	\$2,000	\$4,000
<b>Tag and Title Violations</b>		
TEX. TAX CODE §§ 23.122, and 152.0411 TEX. TRANSP. CODE §§ 501.0234, 501.152, 502.491, 503.038(a)(5), 503.061, 503.062, 503.0625, 503.0626, 503.063, 503.0631, 503.068, 503.070, and 504.901 37 TEX. ADMIN. CODE § 3.76(c) 43 TEX. ADMIN. CODE §§ 215.138, 215.141(b)(9)-(13), (24), 215.144(g), 215.147, and CH. 215, SUBCH. E §§ 215.150-.159		
<b>PLEASE NOTE:</b>		
<b>The term “temporary tag” as used below includes buyer’s temporary tags, dealer temporary tags, internet-down tags, and any other temporary tag that the Department may authorize a licensee to obtain or issue.</b>		
<b>When a licensee misuses a temporary tag, that is an extraordinary breach of trust. Cases involving the misuse of temporary tags will be sanctioned as such. Each misused temporary tag is a separate violation. As such, each misused temporary tag will incur a separate penalty. Inclusive of all other violations, the penalty will be capped at \$200,000 for most cases. If the licensee’s conduct was especially egregious, the penalty cap will be increased from \$200,000 to \$500,000.</b>		
<b>The Department may also seek to deny a licensee access to the temporary tag database if the licensee misuses temporary tags. If the Department takes this step, the licensee will no longer be able to issue <u>ANY</u> temporary tags.</b>		

Failed to timely transfer title	Warning Letter	\$10,000
Failed to timely transfer title to Out of State Buyer	Warning Letter	\$10,000
Selling without title	\$1,000	\$10,000
Failed to take assignment of title	\$500	\$5,000
Failed to assign title	\$500	\$5,000
Gave title directly to buyer	\$500	\$5,000
Gave Manufacturer's Certificate of Origin directly to buyer	\$500	\$2,000
Failed to use "Export Only" stamp	\$1,000	\$4,000
Insufficient fund check for Sales Tax	\$300	\$2,000
Insufficient fund check for VIT fee	\$300	\$2,000
Misuse of Dealer Plate	Warning Letter	Revocation
Failed to keep metal plate record	Warning Letter	Revocation
Use of another dealer's metal plates	Warning Letter	Revocation
Issuing dealer's plate to unauthorized user	\$500	Revocation

Misuse/ failed to follow procedure for issuance/recordkeeping of Converter E-Tag	\$1,000 <u>per tag</u>	Revocation
Misuse/ failed to follow procedure for issuance/recordkeeping of Dealer E-Tag	\$1,000 <u>per tag</u>	Revocation
Misuse/ failed to follow procedure for issuance/recordkeeping of Buyer's E-Tag	\$1,000 <u>per tag</u>	Revocation
Failed to remove out of state plates from dealer's vehicles	Warning Letter	\$2,000 per vehicle
Misuse/ failed to follow procedure for issuance/recordkeeping of Supplemental E-Tag	\$1000 <u>per tag</u>	Revocation
No inspection within previous 180 days when issuing buyer's temporary tag for a used motor vehicle	\$500 <u>per tag</u>	\$2,000 <u>per tag</u>
Failure to Remove Texas Plates and Registration	Warning Letter	\$2,000 per vehicle
Misuse/ failed to follow procedure for issuance/recordkeeping of Internet Down E-Tag	\$1,000 <u>per tag</u>	Revocation
Misuse/ failed to follow procedure for issuance/recordkeeping of Emergency E-Tag	\$1,000 <u>per tag</u>	Revocation
Failure to provide E-Tag Notice or Receipt	Warning Letter	\$2,000

**Failure to Notify Department or Tax Authority**

TEX. OCC. CODE §§ 2301.356, and 2301.358  
TEX. TAX CODE §§ 23.121, and 23.122  
TEX. TAX CODE §§ 151.482 and 151.486  
TEX. TRANSP. CODE §§ 503.006, and 503.038(a)(10)  
43 TEX. ADMIN. CODE §§ 215.141(b)(7)-(8), and 215.145

**PLEASE NOTE:**

**Licensees who issue temporary tags but fail to file monthly statements and annual declarations may be denied access to the temporary tag database in addition to incurring tag-related penalties as outlined in the section titled "Tag and Title Violations".**

Failed to timely notify of change of name/ownership	\$500	\$2,000
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Failed to timely report change of address	\$500	\$2,000
Failed to get approval for show or display	\$1,000	\$4,000
Failed to file complete report with comptroller	\$500	\$1,000
Failed to file annual declaration	Warning Letter	Revocation
Failed to file initial declaration	Warning Letter	Revocation
Failed to file monthly statements	Warning Letter	Revocation
<b>Premises Violations</b>		
<p>TEX. TAX CODE § 23.121  TEX. TRANSP. CODE §§ 503.032, 503.033, 503.038(a)(8)-(9), and 728.002  43 TEX. ADMIN. CODE §§ 215.140, 215.141(b)(1), (14), (18), and 215.145</p>		
Violation of Blue Law	\$500	\$2,000
Failed to meet location requirements	\$1,000	Revocation
No business hours posted	\$1,000	\$4,000
Failure to post copy of GDN license	Warning Letter	\$2,000
No dealer or employee present during posted business hours	\$1,000	\$4,000
No one answering phone	\$1,000	\$4,000
Failed to maintain proof of security	Revocation	Revocation
Improper name on bond	Revocation	Revocation
Failed to show proof dealer still in business	\$500	Revocation
Sold less than 5 motor vehicles in a year	Warning Letter	Revocation

<b>Required Disclosures</b>		
<p>TEX. OCC. CODE § 2301.651(a)(4), (6), and (7)  TITLE 15 U.S.C. § 1233(c)  TITLE 49 U.S.C. § 32704  16 C.F.R. § 455.2  43 TEX. ADMIN. CODE § 215.141(b)(26)</p>		
No Buyer's Guide displayed	Warning Letter	\$2,000
Removed or altered MSRP	Warning Letter	\$2,000
Failed to fulfill written agreement	\$1,000	\$4,000
Failure to properly notify of replaced odometer	\$1,000	Revocation
Failed to disclose damage or provide notice of salvage title	\$1,000	Revocation
<b>Records Violations</b>		
<p>TEX. FIN. CODE § 348.006(c) (2)-(3)  43 TEX. ADMIN. CODE §§ 215.115, 215.141(b)(2)-(4), (15), 215.144, and 217.5</p>		
Sold or leased vehicle not meeting emissions requirements	\$1,000	Revocation
Failed to keep required records – no records	\$1,000	\$4,000
Failed to keep required records – inadequate/missing records	\$1,000	\$2,000

Failed to comply with request for records	\$1,000	\$4,000
Failed to make records available for inspection	\$1,000	\$4,000
Failed to retain copy of compliant buyer identification	\$500	\$2,000
Overcharging documentary fees	\$1,000	\$5,000
No written consignment agreement	\$500	\$2,000

## Enforcement – Salvage Vehicle Dealers – Disciplinary Matrix

The Texas Department of Motor Vehicles provides free and abundant informational resources to the Department's licensees with the intention of assisting licensees, new and old, to operate a successful and law-abiding business. Since September 2021, independent motor vehicle dealers have been required to take a dealer education course to obtain a new license or to renew an existing license. The Department also offers a monthly interactive Dealer Training Seminar where attendees can ask Department staff questions about how to operate their business. In addition, the Department provides a Motor Vehicle Dealer's Manual, a Title Manual, webDEALER training, and other written material that licensees can download and reference at their convenience.

When the Department receives a complaint against a licensee, that complaint is investigated and may be referred to an attorney for further disciplinary action. Section 2302.354 of the Texas Occupations Code allows for an administrative penalty of up to \$1,000 for each violation, or per day for a continuing violation, of Chapter 2302. The Department may also revoke a license for a violation under Section 2302.108 of the Texas Occupations Code.

This Disciplinary Matrix is intended to give licensees an idea of the types of sanctions that may be assessed against them for the most common violations encountered by the Department. **This Matrix does not contain all possible violations and does not serve as a limit on what sanctions the Department may seek in any particular case. The only limit on the sanctions that the Department may seek against a dealer are found in the Texas Occupations Code section referenced above.**

### Aggravating and Mitigating Factors

In determining the amount of administrative penalty to assess, or whether revocation is appropriate, the Department will consider the following aggravating factors:

- The seriousness of the violation(s), including the nature, circumstances, extent, and gravity of the violation(s);
- The economic harm caused by the violation(s);
- Any history of previous violations including whether the licensee previously entered into an Agreed Order with the Department or otherwise received a warning or reduced penalty;
- The amount necessary to deter a future violation; and
- Any other matter that justice requires, to include:
  - Number of violations or number of consumers harmed by violation(s);
  - Attempted concealment of the violation(s);
  - Intentional, premeditated, knowing or grossly negligent act constituting a violation; and
  - Violation of an order issued by the Department.

In determining the amount of administrative penalty to assess, or whether revocation is appropriate, the Department will consider the following mitigating factors:

- Acknowledgement by the licensee of any wrongdoing;
- Willingness to cooperate with the Department; and
- Efforts to correct the violation(s).



Violation	Low Sanction	High Sanction
<b>Fraud</b>		
43 TEX. ADMIN. CODE § 221.112(3), (18)		
Willfully defrauding a purchaser	\$1,000	Revocation
Made a false statement or material misrepresentation to the Department	\$1,000	Revocation
<b>Unlicensed Activity</b>		
TEX. TRANSP. CODE § 503.021, TEX. OCC. CODE §§ 2302.102, 2302.103 43 TEX. ADMIN. CODE § 221.11, 43 TEX. ADMIN. CODE § 221.53, § 221.112(6), (7), (12), (14), (16), (20), or (21)		
Buying/Selling Motor Vehicles without GDN	\$500 per vehicle	Revocation
More than five casual sales	\$500 per vehicle	\$1,000 per vehicle
Operating as Salvage Dealer without proper endorsement	\$500 per vehicle	\$1,000 per vehicle
Aiding and abetting unlicensed salvage dealer operations	\$500 per vehicle	Revocation
Operation of Salvage Vehicle on a public highway	\$500 per vehicle	\$1,000 per vehicle
Curbstoning	\$500 per vehicle	\$1,000 per vehicle
Operating from an unlicensed location	\$1,000	Revocation
<b>Failure to Notify Department</b>		
43 TEX. ADMIN. CODE §§ 221.18, 221.19, and/or 221.112(8) or (9)		
Failed to notify Motor Vehicle Division of additional business locations or of closing location	\$500	\$1,000
Failed to notify MVD of change of ownership or name	\$500	\$1,000
<b>Premises Violations</b>		
43 TEX. ADMIN. CODE §§ 221.41, 221.43, 221.44, 221.45, 221.46, and/or 221.112(1) or (11)		
Failure to meet location requirements	\$1,000	Revocation
Failure to display permanent sign	\$1,000	Revocation
Failure to post business hours	\$500 (if cured)	Revocation
No dealer or employee present during posted business hours	\$500 (if cured)	Revocation
No dealer or employee answering the phone during posted business hours	\$500 (if cured)	Revocation
Failed to display copy of license	\$500 (if cured)	Revocation
Fails to remain regularly and actively engaged in business	Warning Letter (if cured)	Revocation
Failed to provide proof of regular and active business	Warning Letter (if cured)	Revocation

<b>Required Disclosures</b>		
43 TEX. ADMIN. CODE §§ 221.47, 221.48, 221.50, 221.51, 221.52		
Failed to receive evidence of ownership	\$500 per vehicle	\$1,000 per vehicle
Failed to obtain purchaser's signature on salvage vehicle disclosure form	\$500 per vehicle	\$1,000 per vehicle
Failed to obtain purchaser's signature on a non-repairable vehicle disclosure form	\$500 per vehicle	\$1,000 per vehicle
Restriction on sale or transfer of flood damaged vehicles	\$500 per vehicle	\$1,000 per vehicle
Restriction on sale or transfer of export-only vehicles	\$500 per vehicle	\$1,000 per vehicle
Failure to notify Department vehicle will be scrapped or destroyed	\$500 per vehicle	\$1,000 per vehicle
Failure to notify Department vehicle has been scrapped or destroyed	\$500 per vehicle	\$1,000 per vehicle
Failed to identify all salvage vehicles offered for sale	\$500 per vehicle	\$1,000 per vehicle
Failed to identify all non-repairable vehicles displayed or offered for sale	\$500 per vehicle	\$1,000 per vehicle
<b>Records Violations</b>		
TEX. OCC. CODE § 2302.0015 43 TEX. ADMIN. CODE §§ 221.43(b), 221.51(e), 221.71, 221.72, 221.73 and/or 221.112(4) or (5)		
Failed to allow entry or inspection	\$1000	Revocation
Failed to provide records to Investigator while at Licensed Premises	\$500 per vehicle	\$1,000 per vehicle
Failed to provide records to Investigator in response to a written request for records	\$500 per vehicle	\$1,000 per vehicle
Failed to maintain a copy of signed disclosures	\$500 per vehicle	\$1,000 per vehicle
Failed to maintain business records as required – no records	\$1000	Revocation
Failed to maintain business records as required – inadequate/missing records	Warning Letter	\$1,000 per vehicle