

810-5-12-.04 Investigation Procedures for Open Assignment of Title.

(1) An open title is defined in Section 40-12-396(b)(3), Code of Alabama 1975, as "...accepting open assignment of title and/or bill of sale for a motor vehicle which is not completed by identifying said licensee as the purchaser or assignee of the motor vehicle." The following procedures will be utilized when it is determined a licensee (as licensed under 40-12-392, Code of Alabama 1975) is accepting open titles in violation of the code.

(2) A Notice of Statutory Non-Compliance will be issued giving the taxpayer ten calendar days from the date of the notice to comply.

(a) The Department will compile a list of all open title(s) reflecting the issuing state, title number, vehicle identification number, make and model of the vehicle, and other information as deemed necessary.

(b) A copy of the front and back of each open title will be obtained.

(3) Revisit the licensee after the expiration of the ten calendar day period. If the licensee is then in compliance, no further action will be pursued. However, if the licensee is found to still be in possession of open title(s), the licensee may be assessed a \$1,000 penalty for willful failure to comply under Section 40-12-29, Code of Alabama 1975. An action to revoke the license may also be initiated. In the event that the licensee is a designated agent and the license is revoked, the licensee's designated agent status will also be revoked.

(4) Should a licensee previously given a Notice of Statutory Non-Compliance be in possession of open titles(s) in the future, a Notice of Statutory Non-Compliance will be issued to the licensed motor vehicle dealer to take effect upon date of the notice. This offense shall be considered willful failure to comply and a \$1,000 penalty will be assessed under Section 40-12-29. An action to revoke the license may also be initiated. In the event that the licensee is a designated agent and the license is revoked, the licensee's designated agent status will also be revoked.

(5) A licensee who accepts an open title assignment and subsequently sells a motor vehicle and does not complete the assignment of title identifying said licensee as the purchaser or assignee of the motor vehicle shall be considered to have intentionally and willfully failed to comply with the provisions of Article 8 of Chapter 12 of Title 40 and a \$1,000 penalty will be assessed under Section 40-12-29. An action to revoke the license may also be initiated. In the event that the licensee is a designated agent and the license is revoked, the licensee's designated agent status will also be revoked.

(6) The motor vehicle licensee will be provided a copy of his appeal rights under Section 40-2A-8, Code of Alabama 1975, when action to revoke his license is taken.

Author: Mike Gamble
Authority: Sections 40-2A-7(a)(5), 32-8-34(b), 40-12-29, and 40-12-396, Code of Alabama 1975
History: New rule: Filed September 7, 2012, effective October 12, 2012.