

Legislative Regulation Review Committee

2009-059a

Department of Motor Vehicles

**COMPLAINTS AGAINST AND
STIPULATIONS BY MOTOR VEHICLE
DEALERS AND REPAIRERS**

IMPORTANT: Read instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

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Complaints Against and Stipulations by Motor Vehicle Dealers and Repairers

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 14-63-45a through 14-63-45e, inclusive, as follows:

(NEW) Section 14-63-45a. Definitions

As used in section 14-63-45a to section 14-63-45e, inclusive, of the Regulations of Connecticut State Agencies:

1. "Commissioner" means the commissioner of the department of motor vehicles;
2. "Department" means the department of motor vehicles;
3. "Division" means the unit within the department of motor vehicles that is designated to administer complaints against licensees;
4. "Investigator" means the employee designated by the commissioner to investigate a consumer complaint; and
5. "Licensee" means the holder of a dealer or repairer license issued by the department of motor vehicles, dealers and repairers division.

(NEW) Section 14-63-45b. Procedure for filing customer complaints

The following procedures shall be utilized by the division to receive and process complaints from customers of licensees, concerning the operations of and services provided by any such licensees:

1. Each complaint shall be in writing in a form provided by or acceptable to the commissioner;
2. The complaint shall be a plain statement of the facts that form the basis of the claim against the licensee;
3. The complaint shall include the licensee's name, the customer's name and address, the date or dates on which the transaction or transactions with the licensee occurred, and if applicable, a description of any vehicle or vehicles that are the subject of a complaint;
4. The complaint shall be accompanied by all supporting material that pertains to the claim, including but not limited to invoices, repair orders and evidence of payment;
5. The division may request additional materials, which shall be provided by the customer if available; and
6. The complaint and supporting material shall be filed with the Department of Motor Vehicles, Dealers and Repairers Complaints, 60 State Street, Wethersfield, CT 06161.

(NEW) Sec. 14-63-45c. Procedure upon receipt of customer complaint

(a) Within fourteen (14) days of receipt of a customer complaint, a person within the division, as designated by the commissioner, will notify the customer and the licensee in writing that the complaint was received, and that it will be subject to further review.

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(b) Within thirty (30) days of receiving a customer complaint, it shall be reviewed by a person designated by the commissioner. The review shall consist of:

1. A determination of whether the complaint is complete and all relevant documents are attached; and
2. A determination of whether the complaint states facts which if true, give rise to one or more violations of sections 14-51 through 14-66b, inclusive, of the Connecticut General Statutes, as amended, or the regulations adopted thereunder, or both.

(c) In the event that the complaint is incomplete, the person designated to review the complaint shall state in writing what deficiencies exist in the complaint, and notify the customer by mail. The customer shall have thirty (30) days to correct the deficiencies noted. At his or her discretion, the person designated by the commissioner to review the complaint may permit the customer additional time to submit materials, provided the customer has contacted the division within the original time period allotted to correct deficiencies. In the event that the deficiencies are not corrected within the specified time period or any extension of that time period, no action shall be taken on the complaint, the complaint file shall be closed, and the customer and the licensee shall be so notified in writing.

(d) In the event that the complaint does not state facts that give rise to a violation of sections 14-51 through 14-66b, inclusive, of the Connecticut General Statutes, as amended, or the regulations adopted thereunder, or both, the person designated to review the complaint shall notify the customer and the licensee in writing that the department does not have jurisdiction over the matter, and will not proceed with the complaint.

(e) If after review it is determined that a complaint is complete and states one or more violations of sections 14-51 through 14-66b, inclusive, of the Connecticut General Statutes, as amended, or the regulations adopted thereunder, or both, the person designated to review the complaint shall notify the customer and the licensee in writing. The written notification shall relate the particular matters involved in the complaint, and shall inform the licensee that it must file with the division a written response to the matters alleged in the complaint within thirty (30) days of the date of the written notification. If the licensee fails to respond within the thirty (30) day period, the division will send one additional notice to the licensee stating that failure to respond within a ten (10) day period from the date of the letter may result in an action against its license.

(f) Upon receipt of the licensee's response, the person designated to review the complaint will:

1. Recommend that a resolution of the complaint be attempted through voluntary mediation;

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2. Recommend that the complaint proceed directly to an investigation; or
3. Determine that no action is to be taken, and indicate the reason for that determination.

(NEW) Sec. 14-63-45d. Mediation

(a) After a determination that a complaint should proceed to mediation, a person designated by the commissioner as a mediator shall contact the customer and the licensee for the purpose of achieving a resolution of the complaint that is acceptable to both parties.

(b) In order to resolve a complaint, the mediator may:

1. Facilitate entry by the licensee into a stipulated agreement, settlement agreement or consent order, which may include civil penalties, customer restitution or both;
2. Dismiss the complaint for lack of jurisdiction or insufficient evidence;
3. Determine that the department should take no further action on the complaint, stating the reason for that decision; or
4. Determine that a complaint should proceed to investigation.

(c) If at any time either the customer or the licensee chooses not to participate in voluntary mediation, the complaint shall proceed directly to an investigation unless the mediator determines that the complaint should be dismissed or no action should be taken.

(d) If the complaint is resolved through voluntary mediation, the licensee shall waive its right to an administrative hearing under Chapter 54 of the Connecticut General Statutes, as amended.

(NEW) Sec. 14-63-45e. Investigation of customer complaints

The following procedure shall be utilized by the Division when it has been determined by a person designated by the commissioner pursuant to the provisions of sections 14-63-45b through 14-63-45d, inclusive, of the Regulations of Connecticut State Agencies that a customer complaint should proceed to an investigation:

1. An investigator shall be assigned to investigate the complaint;
2. The investigator shall notify the licensee and the customer in writing that the complaint will be investigated;
3. If after investigation it is determined that the facts do not give rise to a violation under sections 14-51 through 14-66b, inclusive, of the Connecticut General Statutes, as amended, or the regulations adopted thereunder, or both, the division shall notify the licensee and the customer in writing that the department does not have jurisdiction over the complaint and no further action will be taken;
4. If after investigation it is determined for any reason that no further action will be taken by the department, the division shall notify the licensee and the customer in writing stating the reason for the decision not to proceed;

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5. If the investigator determines that there is one or more probable violations of sections 14-51 through 14-66b, inclusive, of the Connecticut General Statutes, as amended, or the regulations adopted thereunder, and the division determines that it will take action thereon, the division shall notify the licensee and the customer in writing, and shall proceed in accordance with the Department of Motor Vehicles Rules of Practice as set forth in sections 14-137-36 through 14-137-39, inclusive, of the Regulations of Connecticut State Agencies, as amended from time to time, regardless of whether the matter has or has not been settled between the customer and the licensee; and
6. If the licensee enters into a stipulated agreement, settlement agreement or consent order, and fails to comply with the terms thereof, the licensee's license shall be suspended in accordance with the terms of the stipulated agreement, settlement agreement or consent order.

Sec.2. Sections 14-63-45 and 14-63-46 of the Regulations of Connecticut State Agencies are repealed.

Statement of Purpose:

Purpose:

Section 14-63 of the Connecticut General Statutes sets forth the procedure that the Commissioner must provide in regulations, for accepting and handling of a complaint regarding operations of, and services provided by, a licensed dealer or repairer. The regulations must also provide for the Department of Motor Vehicles to mediate a voluntary resolution of the complaint and for procedures to allow the licensee to stipulate to a complaint and waive such licensee's right to an administrative hearing.

Summary of Main Provisions:

Section 14-63-45a provides definitions for words used throughout the regulation. Section 14-63-45b describes the process used by the agency to receive and process complaints from licensees' customers including; requiring written complaints; plain statement of facts, names, dates and vehicle descriptions; submission of supporting materials; provision of any requested additional materials; and the address to send the written complaint.

Section 14-63-45c provides that (a) the agency will notify the customer and licensee of the customer's complaint; (b) the agency will review the complaint within 30 days for completeness and to determine if a violation of statutes or regulations might exist; (c) the complainant will be given 30 days to correct a deficient file or have it closed, (d) the agency will notify the complainant and licensee in writing if a complaint that does not contain a violation; (e) the agency will notify the complainant and licensee in writing if a complaint does contain a violation, while giving the licensee 30 days to respond; (f) the agency will review the licensee's response and recommend either 1) an attempt at mediation, 2) an investigation be commenced, or 3) no action be taken.

Section 14-63-45d provides that: (a) if mediation is recommended, the commissioner will appoint a mediator to attempt a favorable resolution to both

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parties; (b) the mediator may 1) facilitate a settlement in various forms, 2) dismiss for lack of evidence; 3) explain why the agency should take no action; or 4) send the complaint to investigation; (c) the matter will go directly to investigation if the complainant or licensee decline to participate in voluntary mediation; and (d) if the complaint is resolved the licensee waives its right to a hearing pursuant to Chapter 54 C.G.S.

Section 14-63-45e establishes the following procedure to be used by the agency if a complaint is to be investigated: 1) an investigator is assigned; 2) the complainant and licensee are informed in writing of the investigation; 3) if no jurisdiction is found, the investigator will inform the licensee and complainant in writing; 4) if a decision is made to not proceed, the investigator will inform the licensee and complainant in writing; 5) if a probable violation exists the agency will notify the licensee and complainant that disposition will be undertaken in accordance with the Rules of Practice of the Department of Motor Vehicles, regardless of whether a settlement has been achieved; and 6) if a licensee fails to comply with the terms of a settlement, its license shall be suspended as provided for in the settlement agreement.

Legal Effects of the Regulation:

The entire content of the regulation is new. Licensees and complainants will be better able to understand and anticipate the procedures and their rights regarding complaints and the various means available to the department to resolve conflict.

Be it known that the foregoing:

Regulations Emergency Regulations are:
 Adopted Amended as hereinabove stated Repealed

By the aforesaid agency pursuant to:

Section 14-63 of the Connecticut General Statutes.

Section ____ of the Connecticut General Statutes, as amended by Section _ of Public Act. No. _ of the Public Acts.

Public Act. No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on November 13, 2007 of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on ____ day of 2009.

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The ____ day of _____ 2009.

In Witness Whereof:	Date <u>6/9/09</u>	SIGNED (Head of Board, Agency or Commission) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED COMMISSIONER
Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:		SIGNED <i>[Signature]</i> <u>8/10/09</u>	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL

Approved

Disapproved

Disapproved in part, (Indicate Section Numbers disapproved only)

Rejected without prejudice.

The Legislative Review Committee in accordance with Sec. 4-170, as amended, of the Connecticut General Statutes	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the Connecticut General Statutes.

DATE	SIGNED (Secretary of the State)	BY
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INSTRUCTIONS

One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the Connecticut General Statutes.

Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the Connecticut General Statutes.

Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the Connecticut General Statutes.

Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in underlined and deleted language in brackets. Section 4-170 of the Connecticut General Statutes.

