

DEPARTMENT OF MOTOR VEHICLES
REVIEW OF SUMMARY PROCESS
FINAL REPORT

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS
COMMITTEE

SEPTEMBER 1994

INTRODUCTION

In late spring 1994 the state Department of Motor Vehicles (DMV) issued summary suspensions of 39 automobile dealers' or repairers' licenses for failure to comply with state law surety bond requirements. The DMV action followed passage the previous year of P.A. 93-164, AN ACT INCREASING THE AMOUNT OF SURETY BONDS FOR CAR DEALERS. Effective October 1, 1993, the law raised the bond requirements for repairers from \$2,500 to \$5,000, for new or used car dealers from \$5,000 to \$20,000, and added a \$10,000 bond requirement for leasing or rental licensees. The change in the law affected bond requirements for more than 4,400 licensees in four repair or sales licensing categories.

Members of the committee had received constituent complaints and read press reports of auto dealers or repairers who had been affected by the DMV summary process suspensions. On May 24, 1993, the committee voted to have staff review the authority and process by which the Department of Motor Vehicles issued the summary suspensions. The committee's intent was not to review specific cases for their merit, but rather the process, law, and operating procedures with which the department carries out summary suspensions.

Committee staff reviewed the process, timing, and outcome of DMV's implementation of the change in the surety bond requirement law. Staff also reviewed the authority under which the department can exercise a summary suspension process.

The following pages will discuss the statutory, administrative, and procedural background, actions and events leading up to the 39 summary suspensions, and staff findings and recommendations.

BACKGROUND

Regulatory Authority

The Department of Motor Vehicles regulates new and used car dealers, general repairers, limited repairers, manufacturers, salvage yards, leasing companies, and intermediate processors, under authority of sections 14-51 through 14-67w of the Connecticut General Statutes. The department carries out this authority through its Dealers and Repairers Division, which licenses every business operating under these categories.

Connecticut General Statutes Section 14-52 C.G.S., requires each new car dealer, used car dealer, limited repair shop, and general repair shop to carry a surety bond to protect consumers doing business with the particular dealer or repairer. This section was amended by P.A. 93-164, which increased the surety bond requirements for new and used car dealers from \$5,000 to \$20,000 and for general repairers of limited repairers from \$2,500 to \$5,000. It also expanded the law to cover leasing companies, requiring that any company renting or leasing a vehicle for periods of more than 30 days must carry a \$10,000 surety bond. The law was effective Oct. 1, 1993, meaning any licensed dealer or repairer was to comply with the higher bond requirements on or before that date.

The surety bond is one of the conditions of licensure, and a business is required to provide proof of its coverage and any changes when they occur, such as cancellation of the bond by a surety company. With every license renewal, each dealer or repairer must provide a current bond in the proper amount to the department.

The department has authority to suspend or revoke a dealer's or repairer's license and levy fines or penalties if the business is not in compliance with the bond requirement, or any other pertinent state or federal law. Any person conducting business without the bond is guilty of a class C misdemeanor. The commissioner, under sec. 14-64 C.G.S., has authority to impose fines up to \$1,000 per infraction plus a surcharge up to 50 per cent (the surcharge provision was repealed for dealers and repairers effective July 1, 1994).

Division Structure and Operations

The division during this budget biennium has an authorized complement of 33 staff, down from 42 in 1990. The staff includes 17 inspectors, 9 license examiners, 5 sergeants, 1 lieutenant, and a director. The unit has no authorized clerical personnel.

The Dealers and Repairers Division is responsible for regulation of the following licensed businesses: New Car Dealers - 490; Used Car Dealers - 2,231; Limited Repairers - 246; General Repairers - 1,510; Manufacturers - 129; Salvage Yards - 127; Intermediate Processors - 3; for a total of 4,736 licensed establishments.

Licensure regulation involves issuance of initial licenses, renewals, monitoring licensees for compliance with state and federal laws and regulations, and resolving consumer complaints falling within the department's jurisdiction. Additionally, the division receives about 6,000 complaints annually from dissatisfied customers. Most of the complaints, about 40 percent, are directed at auto repair shops, with approximately another 40 percent concerning auto dealerships -- 20 percent against new and 20 percent against used car dealerships.

The department tends to focus its regulatory activities on new and used car dealerships, particularly new car sales. It is with new car sales that the consumer's exposure is the greatest. For example, a new auto agency operating on the margin and unable to meet all of its bills, could be in the position of selling vehicles that it does not own nor has paid for.

In the extreme, the dealership could be selling cars for which it does not have clear title. Furthermore, there can be a lag of four to six months in the time DMV would process a new title. In that intervening period, the dealership could fold without having paid a manufacturer for cars the dealer had already sold. In that instance, the consumer could be left with a substantial financial obligation (the car loan) on a vehicle which he or she does not own and for which cannot obtain a valid title. The manufacturer could reclaim the car and leave the buyer to fend for himself with a bankrupt car dealership. The difficulty would be compounded in the situation where the buyer traded in a car which was either subsequently resold or seized by creditors of the defunct dealership.

The department monitors the financial health of dealerships by: tracking the flow of title and license application activity by dealers; monitoring bounced checks submitted by dealers for titling and registration; notification of delinquent tax payments through a cooperative arrangement with the Department of Revenue; monitoring for cancellation of a dealership's liability insurance; and notification of surety bond cancellation by bonding companies.

Surety Bond Impact

Connecticut General Statutes Section 14-52, requires all automobile dealers, new and used, and repair shops to carry a surety bond as a protection for the consumer. The cost of a bond to the business, depending on the individual circumstances and the size of the bond, will usually be in the \$150 - \$250 range.

In the above example, a buyer who had received a car without a clear title (thus, legally does not own it) from a dealer who goes bankrupt, could be compensated to some degree by the surety bond. In this case, the Department of Motor Vehicles would move in, invoke the surety bond, and compensate the aggrieved consumer.

In the case of one individual and one car, the buyer might come out whole if the vehicle is a moderately priced one. This would not be the case if a number of buyers were involved with a failing dealership. The limit of the surety bond is just that -- a maximum payout by the

bonding company of \$20,000 during one 12 month period. If one vehicle or ten are involved with a failing dealership, the total payout to all of the aggrieved buyers is only \$20,000. Thus, in the case of 10 buyers, each might only receive \$2,000 compensation from the bond against losses of whatever they paid for the cars (assuming the manufacturer or other creditors took possession of these vehicles which were never titled to the buyers). With the average cost of new cars approaching \$20,000, the loss to consumers would be substantial.

During the last four years the Department of Motor Vehicles invoked bonds on behalf of customers from failing dealerships or repair companies 74 times (19 in 1991; 22 in 1992; 14 in 1993; and 19 to date in 1994). Of these, DMV staff say at least one each year has been a major dealership in which the losses to consumers could have reached into the hundreds of thousands of dollars had not the manufacturers stepped in.

As to the appropriateness of the bond limits, department staff argue that even the higher bond requirements instituted last year are not adequate given the exposure to consumers and the volatility of retail auto sales in a flat or recessionary economy. Indeed, the value of a bond as an insurance device is problematic at current statutory levels.

Summary Process Authority

The statutory increase in surety bonds effective October 1 of last year necessitated that the Department of Motor Vehicles take proactive steps to ensure that almost 4,500 licensees were brought into compliance. The department approached this project with two separate mass mailings to every licensee not in compliance, followed by phone calls to the remaining business's that had not responded to the two mailings.

The department then turned to a summary process action against 50 remaining dealers and repairers that had not increased their surety bonds in response to the two mailings and phone call. A summary process is an action taken, in this case against a dealer or repairer, that suspends a business's license and closes it down immediately and until such time as the matter is resolved at a hearing. The device is used when a governmental agency, in this case DMV, determines that the public health, safety, or welfare is threatened and emergency action is required. Otherwise, the agency would be required to proceed through a lengthy notification and hearing process before suspending or revoking a business's license.

Committee staff reviewed relevant statutes governing these two processes under both the DMV statutes and the Uniform Administrative Procedures Act (UAPA).

Connecticut General Statutes Sec. 14-64 provides in part that, after notice and hearing, the DMV commissioner may suspend or revoke a license of any licensee, impose a civil penalty of up to \$1000, or both, if the commissioner finds the licensee has violated any provision of any statute or regulation pertaining to his business as a licensee.

C.G.S. Sec. 4-182(c), part of the UAPA, provides that:

No revocation, suspension, annulment or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license.

If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

There is no indication that DMV license revocations are exempt from the UAPA, so the general rule is that the two sections, C.G.S. 14-64 and 4-182(c) are to be read together. Much of sections 4-182(c) and 14-164 is similar. Both call for notice and hearing prior to the institution of proceedings. Sec. 4-182 adds some detail in that the notice must be by mail.

The second part of 4-182 is different from 14-64, which only speaks to action after notice and hearing. Section 4-182 allows for summary suspension upon a finding the public health, safety and welfare imperatively require emergency action, with proceedings promptly afterward. Although there is no specific definition of "summary", it appears to mean in this case at least without a hearing.

The summary remedy would be available to the DMV commissioner if the commissioner found that public health safety and welfare imperatively required emergency action. This appears to be a high standard, requiring both a finding of a threat to the public health, safety, and welfare, and a finding that the threat requires emergency action.

The parameters of what constitutes public health, safety and welfare under section 4-182(c) has apparently not been the subject of litigation in Connecticut. Black's Law Dictionary (5th Ed.) defines public welfare as "[embracing] the primary social interests of safety, order, morals, economic interest and non-material and political interests. In the development of our civic life, the definition of "public welfare" has also developed until it has been held to bring within its purview regulations for the promotion of economic welfare and public convenience."

In this case, the department decided that the lack of a surety bond posed an emergency threat to the public health, safety or welfare, economic welfare in this case. This decision followed a series of actions on the part of DMV to bring all licensed dealers and repairers into compliance with the new bond requirements. These actions spanned over a period of nine months between early September 1993 and late May 1994.

The use of summary process by the department against a dealer or repairer is a very infrequent event. In fact, prior to the bond-compliance actions in the spring of this year, it had

only been used three times before involving three dealerships owned by one company -- in effect three actions, but a single event. In 1993 the department used summary process against Century Toyota of Wallingford, Colony Mitsubishi, and Branford Mitsubishi. All three dealerships were owned by Interstate Management Corp., of New Jersey, and the action against the three was brought at the same time. Ultimately, the case produced approximately \$140,000 in restitution to customers, which was covered by Toyota and Mitsubishi.

Bond Compliance - DMV Actions

With passage of P.A. 93-164 earlier in the year and an October 1, 1993, effective date, the Department of Motor Vehicles began its notification process to bring dealers and repairers into compliance with the new bond requirements in early September.

On Sept. 3, the Dealers and Repairers Division sent a notice (see Appendix A) to 4,474 auto repair shops and dealerships citing the new bond requirements and October 1 deadline. The notice was sent via "certified" bulk mail (technically, a bulk rate with a Certificate of Mailing). "Certified" Bulk Mail does not guarantee or certify that the addressee has received the letter. It only certifies the exact number of pieces of mail that were delivered to the post office by the sender and mailed under the bulk rate. Unlike Return Receipt Certified mail, there is no formal verification that the correspondence was received by the addressee. The mailing cost differential, on the other hand, is substantial -- 20 cents per piece for bulk vs \$2.29 for certified return receipt.

By Nov. 12th, almost 3,100 of the dealers and repairers responded submitting the new, higher surety bonds. On that date, the department sent a second mailing (see Appendix B) to 1,378 repair shops and dealerships, again by "certified" bulk rate. From this mailing, 1,204 businesses responded with new surety bonds, leaving a balance of 174 out of compliance.

On March 21 and 23 the department attempted to contact each of the remaining 174 businesses by phone concerning their delinquent bonds. Not all were reached because some were out of business and others did not have current business phone numbers on file with the DMV. The phone contact produced responses from another 123 dealers or repairers either in the form of new bonds or notification they were no longer in business.

On April 14, the department began moving against the remaining 50 dealers or repairers with summary process, citing them with failure to comply with the law, suspending their licenses, closing them down immediately, and setting a hearing date for the businessman to present his or her case. Of the 50 repair shops or dealerships, 11 were out of business, leaving 39 against whom a summary process action was taken (See Appendix C).

The department began issuing summary process suspensions April 14 and continued through June 6th. Almost all businesses were able to secure new bonds and reopen within 24

to 48 hours. One group of about seven received the suspensions on a Friday, carrying the closure through the weekend.

Among the 39 businesses against whom summary action was taken, there were 19 used car dealers, 7 new car dealers, 12 repairers, and 1 limited repairer. Actions taken against the 39 include charges withdrawn, stipulated settlement, and formal hearing. In two cases, decisions are still pending. The breakdown among the actions is: charges withdrawn - 6; stipulated settlement - 29; formal hearings - 2 (Appendix C).

Stipulated settlements were conclusions agreed upon by DMV and the particular business. It involved production of a bond, payment of a fine for failure to secure the bond by Oct. 1, and immediate reinstatement of the dealer's or repairer's license. Mitigating circumstances, such as the effective date of the bond (dated Oct. 1, but filed late) may affect the size of the fine. All of the stipulated settlements were for \$750, except for three, which were \$300. Fines ordered in the two cases that went to formal hearing were for \$1,000 and \$1,500.

In some cases charges were withdrawn when circumstances were beyond the control of the business, such as an error on the part of DMV or the bonding company or the valid bond was presented to DMV investigators at the time the summary process was being carried out. Charges were withdrawn in six of the cases.

FINDINGS AND RECOMMENDATIONS

Findings

Following eight months, two letters, and one telephone call notifying car dealers or repairers of a statutory change in surety bond requirements, 39 businesses out of 4,474 failed to acquire the appropriate bond and come into compliance with a new state law. For whatever reason, either they did not get the word or they chose to ignore it, the inaction provided a backdrop for the Department of Motor Vehicles to exercise a seldom used legal tool of summary process to force them into compliance. It was the belief among administrators and legal staff within the department that the summary process was the fastest and most effective method for bringing closure to a bond compliance effort that dragged on well past the statutory deadline. DMV staff believed it was highly unlikely that at least one of the three communications had not gotten through to each person in charge of the 39 dealerships or repair shops.

As discussed above, authority for use of the summary process rests within the Uniform Administrative Procedures Act, and allows state agencies to suspend due process rights in the short term if a threat to the public health, safety or welfare requires emergency action. At issue is the department's interpretation of this situation as a true threat to the public welfare (economic).

Utility of the surety bond. The dealers and repairers unit had used the summary process only three times before against one holding company, in a situation where hundreds of thousands of consumers' and businesses' dollars were at risk. The risk in the recent surety bond issue was only potential -- not immediate.

Moreover, the current surety bond requirements are a thin salve for a potentially serious burn. A \$20,000 bond would barely protect one buyer of a new car if a dealership were to collapse. Given the cost of new cars, the size of many dealerships, and the numbers of vehicles in various stages of the delivery process on any given day, hundreds of thousands of consumers' dollars could be at risk. The surety bond would only cover \$20,000.

As an insurance hedge for repair customers, the bond offers somewhat more protection since these transactions are usually payment upon completion and do not involve titling, registration, and large loans. The customer normally does not have a substantial up front investment before completion of the transaction. Further, historically there has been little demand for DMV to exercise a repairer's bond.

In most cases where a consumer has faced a loss at the hands of a dealer or repairer, the department has been able to provide a solution through negotiation and mediation between the parties, or exercise of its regulatory authority.

In sum, the surety bond system, as presently structured, is not a very effective device for protecting the consumer. The fact the surety bond is of limited value diminishes the argument there was an imperative need for emergency action, thus the use of summary process.

However, the department does have an obligation to ensure the statutes within its purview are carried out by those it regulates. Particularly, in our system of laws, the department's regulatory authority cannot be ignored and it should have adequate legal and administrative tools to carry out the mandate the legislature imposed upon it.

Departmental policy. Up until this point, the department has had no written policies, procedural outlines, or regulations to guide enforcement staff in how, when, or under what conditions a summary process should be exercised. In effect, when the summary process began in spring, the department had no experience, administrative guidelines, or standard operating procedures to assist in carrying out the action against the businesses that were out of compliance.

Indeed, the exercise of summary process should have been just one part of a larger, detailed strategy crafted early on in the process, not an ad hoc device employed late in the game.

Within the last few weeks department legal staff prepared and circulated a memorandum to guide regulatory units in the administration of summary process (see Appendix D). The memorandum is more a definition of process rather than policy. Reflecting its legal rather than bureaucratic authorship, the memorandum does not bind the department to a rigid course of action in response to a specific set of conditions. It allows the department legal maneuvering room.

Project management. Once P.A. 93-164 cleared both houses of the General Assembly, planning for its implementation on October 1 should have begun. The department made a reasonable effort, given its financial and staff constraints, to notify all automobile dealers and repairers of the change in surety bond requirements. More than 96 per cent of the businesses responded and came into compliance within four months of the statutory deadline. The summary process was used against less than 1 percent of the businesses, and then after three notifications and almost eight months.

However, the process took too long and forced regulatory confrontations that probably could have been avoided in many cases. It is reasonable to assume there will always be an irreducible number of the regulated who will resist regulation for a variety of reasons. This is why governments have enforcement powers. In this case, it is not clear whether the 39 businesses that faced summary process represent the irreducible number, or that some or many simply did not get the word. What is clear is that the department was obligated to bring them into compliance by some means.

It is the staff finding that a better articulated plan, initiated earlier in the game, with contingencies for managing the final outliers and the irreducible number, would have brought the program to closure sooner and possibly without the exercise of summary process in all 39 cases.

Recommendations

As discussed in the background and findings above, the program review committee staff believes the Department of Motor Vehicles acted within its statutory authority in exercise of summary process against the remaining 39 dealers or repairers who were not in compliance with surety bond requirements.

However, it is felt the process could have been executed more efficiently and effectively and with fewer problems had there been better planning, policy guidelines, improved ongoing communications between DMV and its constituent groups, and establishment of a realistic and effective financial responsibility system for dealers and repairers.

Also, in the course of this limited review and previous DMV studies, staff found ambiguous and overlapping regulatory authority among the Departments of Motor Vehicles and Consumer Protection and the Attorney General.

Committee staff makes the following recommendations.

- 1. The Department of Motor Vehicles should articulate a policy to guide enforcement units within it, such as the Dealers and Repairers Division, as to the appropriate circumstances, timing, and laws under which various enforcement measures ought to be used. The policy should include graduated enforcement response measures and a "highest authority required" signoff for each level of enforcement action.**
- 2. The department should develop a general process for administering the above enforcement policy. This process should respond to the seriousness of the problem, timing of any action, and degree of police powers needed to accomplish the task. It should set down the management and administrative methods for carrying out the action which includes an adequate paper trail for notification and response.**

For example, in the case of the surety bond enforcement issue reviewed here, the department could have accelerated the process, carried it out before the end of the calendar year, and used an abbreviated hearing process where delinquent businesses were required to appear and show cause why their licenses should not be suspended or revoked. Notification of delinquent businesses would have been formalized and certified, such as with return receipt certified mail. This could have been accomplished in lieu of a summary process.

3. The Department should develop an interdisciplinary project planning and management system to carry out unique and large operations such as the bond project reviewed here. The planning process for these events should be comprehensive, well timed, include contingency plans for the unexpected, identify and secure the appropriate resources to carry the project out, establish reasonable deadlines, and have the knowledge and support of management. The planning process should be an interdisciplinary team effort with participants drawn from throughout the department.

4. The department should design and submit to the legislature a plan for a more realistic and effective system to ensure the financial responsibility of dealers and repairers. The current surety bond requirements are not adequate to the task, particularly in the case of large dealerships. The department in recommending changes should consider such models as those used to protect consumers from fraud by, or failures of, home improvement contractors, health clubs, insurance companies, realty firms and banks through the use of guarantee funds.

5. The department should develop communication linkages between itself and its business clients. The purpose would be to keep these constituencies informed of changes in the law, policies, regulations, procedures, and processes. The communication devices could include a variety of low cost vehicles such as, periodic one-page flash reports, end-of-session updates on legislative changes, fax notices, and public service announcements.

APPENDICES



STATE OF CONNECTICUT
DEPARTMENT OF MOTOR VEHICLES
80 STATE STREET WETHERSFIELD, CONNECTICUT 06181

TO: All Motor Vehicles Dealers & Repairers

FROM: Leland R. Telke, Asst. Division Chief 

DATE: September 3, 1993

SUBJECT: Bond Requirements

The bond requirements for Motor Vehicle Dealers and Repairers were changed by P.A. 93-164. This act, effective October 1, 1993, required a dealer to post a bond of \$20,000 and a repairer to post a bond of \$5000.00.

All dealers and repairers who have a license that expires in the month of October are required to have the new bond on file before the license can be renewed.

All dealers and repairers not affected by license expiration must have the required bond on file with the Department by December 1, 1993. Any person, firm or corporation which fails to file this bond by the December 1, 1993 deadline will be subject to license revocation.

All repairers who have a bond with the Western Surety Company are to check with their Insurance Agent as Western Surety Company has a blanket rider on file with the Department of Motor Vehicles increasing all repairer bonds inforce as of October 1, 1993.

LRT:cml

Seat Belts Do Save Lives



STATE OF CONNECTICUT
DEPARTMENT OF MOTOR VEHICLES
80 STATE STREET WETHERSFIELD, CONNECTICUT 06161

TO: All Dealers and Repairers
FROM: Leland R. Telke, Asst. Division Chief (initials)
DATE: November 12, 1993
SUBJECT: Bond not received - Final Notice

Effective October 1, 1993 all Repairer Bonds increased to \$5,000 and Dealer Bonds to \$20,000 (both new and used dealer).

As of this date the Dealer and Repairers Division has not received a bond in the required amount from your business.

Any licensed Dealer or Repairer who has not filed the required bond by December 1, 1993 will be subjected to adjudication for license revocation as this bond is required to be maintained as a condition of your license.

Inquiries on bonding may be directed to Madeline Bichun or Anthony Ruggerio at 566-3261 or 566-3285.

LRT:cml

Seat Belts Do Save Lives

APPENDIX C

SUMMARY PROCESS FINAL ACTIONS

BUSINESS NAME	ADDRESS	BUS. STATUS	ACTION	PENALTY	LICENSE
A and D Auto Sales	932 New Britain Av., W. Htfd	O.O.B			Used Dealer
Alves Auto Body, Inc.	1645 Park St., Htfd	Oper	Chgs w/drwn		Repairer
Amiable Auto Center	1137 Albany Ave., Htfd	Oper	Dec. Pending		Used Dealer
Automtd Cmpctn Sys.	P.O. Box 169, Northford	Oper	Stip	\$750.00	New Dealer
B & D Automotive	398 Riverside, Bristol	Oper	Stip	\$300.00	Used Dealer
Bergman Bergen R, Inc	117 Newfield Av., Htfd	O.O.B			Ltd. Repair
Bongiornos Car Repair	14 Diaz St. Stmfrd	Oper	Stip	\$750.00	Repairer
Brian Motors	11 High St., Suffld	Oper	Hearing	\$1,000.00	Used Dealer
Byron's Auto Body	76 Smith St., New London	Oper	Chgs w/drwn		Repairer
Classic Cycles Ltd	21 Forest St., New Can	Oper	Stip	\$750.00	New Dealer
Colonial Texaco	Rt.6 & 184, Dnbry	Oper	Stip	\$750.00	Used Dealer
Conroy Development	45 Industry Ln., Waterbry	O.O.B.			Used Dealer
Copper Beach Garage	18 Garnett Park, Madsn	Oper	Stip	\$750.00	New Dealer
Cuddys Texaco Ser	45 Bridge St., New Milfrd	Oper	Hearing	\$1,500.00	Used Dealer
D and D Motors	112 New Haven Rd., Milfrd	Oper	Stip	\$750.00	Used Dealer
Danbury Auto Ser Ctr	South St., Dnbry	Oper	Stip	\$750.00	Used Dealer
Faria Auto Repair	149 Grassy Plain, Bethel	O.O.B.			Repairer
Fleet Owners Body Ser.	357 Plsnt VI Rd, S. Wndsr.	O.O.B.			Repairer
For Wheels Inc	429 W Main St., Stamfrd	O.O.B.			Used Dealer
Greatr N H Tech Col	88 Bassett Rd., No. Havn	O.O.B.			Repairer
H And V Corp	1025 E. Main St., Bprt	O.O.B.			Repairer
Hertz Corp.	720 Post Rd., Fairfld	O.O.B.			Used Dealer
HTFD Mack Trucks	709 Windsor St., Htfd	Oper	Dec. Pending		New Dealer
Ives, B.L. & Sons	22 Rt. 66 E., Columbia	Oper	Chgs w/drwn		New Dealer
Jim's Auto Repairs	121 Barnhill Rd., Wdbury	Oper	Stip	\$750.00	Used Dealer
John's Auto & Truck	85 Mill Plain, Danbury	Oper	Chgs w/drwn		Repairer
Matlack, Inc.	Rollins Rd., Norwich	Oper	Chgs w/drwn		Repairer
M&E Ford Sales, Inc	1179 E. Main St., Merdn	Oper	Stip	\$750.00	New Dealer
Meenas Stratford Gulf	245 Honeypot Rd., Stratfrd	Oper	Stip	\$300.00	Repairer
Mohawk Motors	20 Scoville St., Torrntn	Oper	Stip	\$300.00	Used Dealer
National Car Rental	Bradley Arpt, Windsor Locks	Oper	Stip	\$750.00	Used Dealer
New Haven Lube	1607 Dixwell Av., Hamdn	O.O.B.			Repairer
New Milford Auto Cen.	Old Twin Pike, New Milfrd	Oper	Stip	\$750.00	Repairer
Paul's Service Center	819 Lindley St., B'port	Oper	Stip	\$750.00	Ltd Repairer
Performance Inc.	132 N. Ivy St., Brnfrd	Oper	Stip	\$750.00	Repairer
Pete's Automotive	207 Oak St., New Britain	Oper	Stip	\$750.00	Repairer
Post Rd Auto Body	69 Post Rd., Cos Cob	Oper	Stip	\$750.00	Used Dealer
Price Service Center	30 Brookfield St., Norwk	Oper	Stip		Repairer
Quality Auto Service	594 New Hav Av., Milfrd	Oper	Stip	\$750.00	Repairer
Re Tep, Inc	160 Slater Av., Jewett Cty	Oper	Chgs w/drwn		Used Dealer
Rondiones Automotive	455 Wethersfield Av, Htfd	Oper	Stip	\$750.00	Used Dealer
Serras Tune Up	247 Forbes Av., New Havn	Oper	Stip	\$750.00	Used Dealer
Steves Auto Service	231 W. Main St., Meridn	Oper	Stip	\$750.00	Used Dealer
Sunrise Motors	1549 Park St., Htfd	Oper	Stip	\$750.00	Used Dealer
T Fusco Inc	594 Lakewood Rd., Waterbry	Oper	Stip	\$750.00	Used Dealer
T & C, Inc.	132 N. Ivy St., Branford	Oper	Stip	\$750.00	Used Dealer
Trolley Sq. Ser Ctr	356 Main St., E. Havn	Oper	Stip	\$750.00	Used Dealer
Truck Center	120 Universal Dr, No. Havn	Oper	Stip	\$750.00	New Dealer
Wades Texaco	2370 Stratford, Stratfrd	Oper	Stip	\$750.00	Repairer
Wethersfield Shell	215 Silas Deane, Wfld.	O.O.B			Ltd. Repair

Legend

O.O.B. -- Out of Business

Oper -- Operating

Stip -- Stipulated Settlement



STATE OF CONNECTICUT
 DEPARTMENT OF MOTOR VEHICLES
 60 STATE STREET WETHERSFIELD, CONNECTICUT 06161-4005
 LEGAL SERVICES DIVISION — (203) 566-2404

M E M O R A N D U M

TO: Peter Rosso and Lee Telke
 Dealers and Repairers Division

FROM: John Yacavone and Tom Ruby
 Legal Services Division

RE: Summary Suspension Actions - Dealers and Repairers

This shall serve to confirm the administrative and procedural arrangements employed in dealer and repairer cases involving suspension of a license prior to a hearing. While the need for such immediate actions will be justified, it is nevertheless essential that we provide our customers not only procedural due process, but also substantive due process.

The requirements of procedural due process are met by the statutory prescription contained in the Uniform Administrative Procedure Act, specifically Section 4-182(c), which reads in pertinent part

...If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Our established practice has required that a managerial employee with the authority to impose a suspension shall, prior to taking any action aggrieving a business licensee, make a specific written finding of facts supporting such an order. The order must be coupled with an opportunity for a timely hearing on a date certain which must be communicated to the licensee concurrent with the order.

Substantive due process involves the factors to be considered in any specific case. They include whether the customer has been previously contacted by the Department concerning the matter at issue, the effectiveness of that communication, the provision of opportunities to resolve the issue informally, a "final" warning letter sent by certified return receipt mail, the risk of continued or increased harm posed to other categories of customers or the public in general by inaction and whether the alleged violation involves a mandatory condition of licensure.

Our goal remains customer satisfaction. Therefore, in taking summary action, care shall be taken to obtain compliance without

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unnecessarily closing a licensee's business. There are several means of affording a business licensee the opportunity to demonstrate compliance with the law at the time of execution of any order for license revocation. These may include provision of a "window period" prior to the effective date of the suspension, or the provision of a stay of suspension under the rules of practice for conducting hearings based upon the acceptance of *prima facie* evidence of compliance, e.g., a properly executed bond, by those serving the order. Such actions shall continue to be governed by the principle of promoting customer service and satisfaction with due regard to the rights and dignity of each individual.