State of Mississippi
Motor Vehicle Commission

MISSISSIPPI MOTOR VEHICLE COMMISSION
REGULATION NO. TWELEVE

Export Chargeback Procedures

A. Definitions
Terms used herein that are defined in Section 63-17-53 shall have the meaning ascribed in that statutory section.
B. Prohibited Conduct.
Notwithstanding any franchise or other contractual provision, policy or procedure to the contrary, no manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division may:

1. Refuse to allocate, sell, or deliver motor vehicles to a motor vehicle dealer;
2. Charge back or withhold payments or other things of value for which a motor vehicle dealer is otherwise eligible;
3. Prevent a motor vehicle dealer from participating in any promotion, program, or contest;
4. Threaten to take or take any act prejudicial to the motor vehicle dealer by threatening to cancel any franchise or any contractual agreement existing between the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division and motor vehicle dealer; because the motor vehicle dealer sold or leased a motor vehicle to a customer who exported the vehicle to a foreign country, unless the manufacturer demonstrates that the motor vehicle dealer knew or reasonably should have known that the customer intended to export the vehicle.

C. Hearing.

1. A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division may not take any action against a motor vehicle dealer, including without limitation, reducing its allocations or supply of motor vehicles to the motor vehicle dealer, or charging back a motor vehicle dealer for an incentive payment previously paid, unless the manufacturer first meets in person, by telephone, or video conference with an officer or other designated employee of the motor vehicle dealer.
2. At such meeting, the manufacturer must provide a detailed explanation, with supporting documentation, as to the basis for its claim that the motor vehicle dealer knew or reasonably should have known the customer's intent to export or resell the vehicle.
3. After such meeting, the motor vehicle dealer shall have a reasonable period, commensurate with the number of vehicles at issue, but not less than 30 days nor more than 90 days to respond to the manufacturer's claims. If the motor vehicle dealer does not respond within the specified time period, the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division may take such actions as would otherwise be allowed under the parties' agreements or otherwise applicable procedures or policies.

4. If following the motor vehicle dealer's response and completion of all internal dispute resolution processes provided through the manufacturer, the dispute remains unresolved, the motor vehicle dealer may file a protest with this commission within 30 days after receipt of a written notice from the manufacturer that it still intends to take adverse action against the dealer.
5. If the protest is timely filed, this commission shall notify the manufacturer of the filing of the protest, and the manufacturer shall not take any action adverse to the motor vehicle dealer until this commission renders a final determination, that the manufacturer's proposed action is in compliance with the provisions of this regulation.

D. Burden of Proof.

1. There is a rebuttable presumption that the motor vehicle dealer neither knew nor reasonably should have known of its customer's intent to export or resell the vehicle if the vehicle is titled or registered in any State in the United States.
2. In any hearing pursuant to this regulation, the manufacturer has the burden of proof on all issues raised by this Regulation.

These rules are promulgated under the authority of Mississippi Motor Vehicle Commission Code §63-17-69.

Public Hearing May 19, 2010 at 10:00 a.m., 1755 Lelia Drive, Ste 200, Jackson, MS 39216.