

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-5-1-211

Rule Title: Motor Vehicle Registration Delinquency Penalty and Interest Charges

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

Yes


Does the proposed rule have any economic impact?

No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 9/22/14

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-5-1-.211

Rule Title: Motor Vehicle Registration Delinquency Penalty and Interest Charges

 New X Amend Repeal Adopt by Reference

- NO
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND

BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE
BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Motor Vehicle Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-5-1-.211 Motor Vehicle Registration Delinquency Penalty and Interest Charges

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to remove reference to Administrative Law Judge, specific subsections of the Code, and county licensing offices and to offer further clarification in certain areas.

RULE NO. & TITLE

810-5-1-.468 Refunds of Motor Vehicle Registration Fees

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION

The department proposes to amend the above rule to add the authority section for IFTA, and to remove subsections of the Code.

RULE NO. & TITLE

810-5-8-.08 Refunds of Mandatory Liability Insurance (MLI) Reinstatement Fees

INTENDED ACTION: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to remove reference to Administrative Law Judge and specific subsections of the Code.

RULE NO. & TITLE

810-5-9-.14

Petition for Refund for Fees Erroneously Paid for IFTA Decals

INTENDED ACTION: Repeal rule

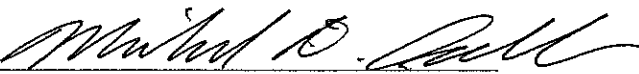
SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the above rule because similar refund provisions are also included in Rule 810-5-1-.468, Refunds of Motor Vehicle Registration Fees.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:30 p.m. on Wednesday, November 5, 2014, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at ww.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, November 5, 2014

CONTACT PERSON AT AGENCY:
Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380


Michael D. Gamble, Secretary
Alabama Department of Revenue

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810-5-1-.211 Motor Vehicle Registration Delinquency Penalty and Interest Charges.

(1) Penalties for the late registration of a motor vehicle are codified in Sections 40-12-260(a)(5) and 32-6-65(b), Code of Alabama 1975. Additionally, a penalty under Section 40-12-249(b) is applicable to anyone operating a vehicle with an improper class license plate. This rule does not address the penalty provisions of Section 40-12-255(b) involving manufactured homes.

(2) Registrants have 20 days from date of purchase or acquisition to register a newly acquired vehicle without penalty.

(3) In determining the 20-day penalty free period, the day the vehicle was actually acquired is not included in the calculations. Thus issuing officials, in calculating the 20-day "grace period" must begin counting using the day following the purchase or acquisition date.

(4) In calculating the 20 day penalty and interest "grace period," if the 20th day falls on a Saturday, Sunday, holiday, or any day that the **county issuing licensing** office is closed, the vehicle owner may register his or her vehicle the next business day without penalty and interest charges as per Alabama law.

(5) If someone is issued a current and valid Alabama temporary license plate(s) before the 20-day penalty and interest "grace period" expires for his or her newly acquired vehicle, penalty and interest are not to be charged if the vehicle is registered while the temporary plate(s) remains valid. The temporary plate must have been acquired prior to the delinquent period.

(6) If someone is issued a current and valid temporary license plate for his or her newly acquired vehicle in another jurisdiction, penalty and interest shall not be charged when registered while the temporary plate is valid, even if the 20th day occurs before the temporary plate expires. Provided, the temporary plate acquired from another jurisdiction must have been secured within the 20-day "grace period" from date purchased or acquired.

(7) Section 32-6-65(b), in defining the phrase "late registration of a motor vehicle" uses the phrase "date of purchase or acquisition." There are many ways one may **acquire** a motor vehicle, including:

- (a) Gift,
- (b) Prize,
- (c) Divorce settlement,
- (d) Estate settlement.

(8) It is the responsibility of anyone acquiring a vehicle to prove to the satisfaction of the license plate issuing official the date the vehicle was acquired, if the vehicle was operated with a temporary license plate, and any other factor that would assist the

issuing official in determining when the registration fee liability attaches, and if delinquency penalty and interest charges are due.

(9) Situations sometimes occur where the **date of purchase** is different from the **date of acquisition**. In cases where the registrant can document to the issuing official that the newly acquired vehicle was not received by the owner until a date subsequent to the purchase date, penalty and interest shall not be charged if the vehicle is registered within 20 days of the acquisition date. Example: Someone acquiring a new truck from a dealership, as part of the purchase contract, requires the dealer to paint the truck and add special equipment, and such changes result in the new owner not taking possession of the truck until several days after the date shown on the title application as the purchase date.

(10) Situations sometimes occur where a purchaser will acquire a motor vehicle, have it delivered by the selling dealership to the purchaser's location, where it is stored until weeks or months later when the purchaser needs to place the vehicle into service. If the purchaser documents to the license plate issuing official that the vehicle was delivered by the seller and not subsequently operated on the public highways prior to the vehicle being registered, the issuing official shall charge no late registration penalty or interest.

(11) Under provisions of the Alabama Certificate of Title and Antitheft Act, a salvage motor vehicle may be rebuilt and operated on the public highways **after it has been inspected by the Department of Revenue**. In such cases, upon inspection and the issuance of an application for certificate of title for the rebuilt vehicle by the Department of Revenue, the vehicle shall be registered within 20 days of the date shown on the application for certificate of title without penalty or interest charges attaching (unless the registration fee liability does not attach, for example, if the rebuilt vehicle is acquired by and immediately placed into dealer inventory).

(12) There are situations where owners acquire motor vehicles to be used exclusively on private property and not on the "public highway" as that term is defined in Section 40-12-240. In the event the owner needs to operate the vehicle on the public highways, ~~before operating~~, the owner must first register the vehicle – there is no 20-day grace period in such cases. In the event the vehicle is operated on the public highways without the registration having been **acquired obtained before operation**, delinquency penalties and interest charges are due when the vehicle is subsequently registered. Vehicle operation on the public highways does not include movement directly from one side of a public highway to the opposite side of the highway (for example, to move the vehicle from plant sites directly across the highway from each other).

(13) In the event someone leases a motor vehicle, the lease date is the date of acquisition, and the registration fee liability attaches on the lease date, unless the lessor or lessee can provide evidence that the lessee did not receive control and possession of the vehicle on the lease date.

(14) In the event a licensed motor vehicle dealer moves a vehicle from his/her vehicle sales inventory to be used as daily rental vehicle, the motor vehicle dealer shall certify to the issuing official the date that the vehicle was placed into the rental inventory, or the date that the vehicle was first used as a rental vehicle, whichever date is first, in order for the issuing official to determine if delinquency penalty and interest charges accrue. This same requirement is applicable if the vehicle is removed from dealer inventory for use as a service vehicle, etc.

(15) In the event a **manufacturer of motor vehicles** elects to sell a motor vehicle to the employee of the manufacturer or direct to a retail customer, the liability for registration fees would begin at the date of purchase or acquisition, with the purchaser having the 20-day grace period to acquire registration.

(16) In accordance with the opinion of the Attorney General issued to the Honorable Larry Prince, Tax Assessor, Franklin County, ~~under date of~~ on June 2, 1993, during the 20-day period a newly acquired vehicle may be operated without a current and valid Alabama license plate being displayed on the vehicle, if the owner has not secured a new registration for the vehicle.

(17) In accordance with the provisions of Section 40-12-260~~(b)(1)(2) and (3)~~, during the 20-day grace period from purchase date or acquisition date, the operator of the newly acquired vehicle must retain with the vehicle the ownership document(s) authorized in these law subsections for possible presentation to law enforcement. Provided, if the person acquiring the vehicle has a current and valid license plate formerly registered to another vehicle he/she previously owned, said license plate may be affixed to newly acquired motor vehicle.

(18) If the newly acquired motor vehicle is a truck or truck tractor with a gross weight exceeding 10,000 pounds, or is a commercial bus, while the registration may be secured without penalty during the 20-day period following the date of purchase or acquisition, operation of the truck, truck tractor or commercial bus on the public highways, without a current and valid license plate may subject the operator to law enforcement sanctions; particularly, if the vehicle is operated outside the State of Alabama.

(19) If the owner of a newly acquired motor vehicle seeks to register the vehicle by transferring the current and valid registration from a vehicle he/she continues to own, in accordance with the provisions of Section 40-12-260, such transfer cannot be made. If, however, the owner can document to the satisfaction of the license plate issuing official that the previously owned vehicle was sold or otherwise disposed of prior to the acquisition of new vehicle, the transfer may be made. Provided, if the owner of the newly acquired vehicle can document to the satisfaction of the license plate issuing official that the previously registered vehicle was junked or destroyed thereby rendering it inoperable, although he or she continues to own the vehicle, prior to the acquisition of the new vehicle, the issuing official may transfer the license plate from said vehicle to

the newly acquired vehicle within the 20-day period without registration penalty or interest charges.

(20) In the event an Alabama resident acquires a motor vehicle in another state, and operates the vehicle in that jurisdiction, or outside the State of Alabama, for days, weeks, or months, perhaps using temporary plates from the jurisdiction where vehicle was purchased, the 20-day penalty free period shall begin on the day following the date the vehicle enters the State of Alabama, as the registration fee liability attaches upon vehicle operation upon Alabama public highways.

(21) Generally, any vehicle subject to registration fee or ad valorem tax exemption is not exempt from penalty and interest charges. However, vehicle owners, under laws providing for exemption of "charges of any nature whatsoever" (such as Section 40-9-12) are exempt from penalty and interest charges.

(22) The \$15 penalty levied under Section 32-6-65(~~b~~) for "the failure to register the vehicle within 20 calendar days of the date of purchase or acquisition" is applicable when the vehicle owner has no current and valid Alabama license plate that can be transferred to the newly acquired vehicle. In the case where the vehicle owner has a current and valid Alabama license plate which was removed from a vehicle that was sold, junked or destroyed, and fails to transfer said license plate to the newly acquired vehicle within 20 days of purchase or acquisition, only the transfer penalty imposed under Section 40-12-260 (~~a~~)(5) shall be applicable.

(23) Section 32-6-65(~~b~~) provides for a \$15 penalty for anyone failing to renew his or her vehicle registration during his or her designated renewal month. In the event a motor vehicle owner has a current and valid Alabama license plate that may be transferred to a newly acquired vehicle, and fails to do so within the 20-day grace period, and also fails to timely renew his or her vehicle registration in the designated renewal month, both the \$15 transfer penalty and the \$15 penalty authorized under Section 32-6-65 (~~b~~) for failure to timely renew shall be applicable.

(24) If the last day of the registrant's renewal month(s) falls on a Saturday, Sunday, holiday, or other day that the issuing office is closed, the registrant may renew his or her vehicle registration without penalty or interest charges during the next business day.

(25) Some Alabama licensing officials ~~counties~~ send renewal notices to persons previously registering their motor vehicles in that county. The failure of any licensing official ~~county~~ to offer this service, or the failure of the renewal notice to be received by the vehicle owner does not serve to waive the penalty or interest charges levied under Alabama law.

(26) Section 40-12-10(~~f~~) provides that a license-issuing official cannot "fail to collect such penalties when issuing such license." However, anyone determined to be subject to a registration law penalty may, after paying the penalty, seek a review by a

court of competent jurisdiction to seek a refund of the penalty or interest charges. Registration penalties assessed on vehicles subject to registration under Section 32-6-56, Code of Alabama 1975, may be appealed **to the Department's Administrative Law Division by filing a notice of appeal in accordance with Section 40-2A-7.**

(27) Penalty provisions found in Sections 40-12-260 and 32-6-65 are not applicable when the following registrations are issued:

(a) State, county, municipal government, Public Utility Department vehicles. Vehicles owned by volunteer fire department license plates as authorized under Section 40-12-250.

(b) U.S. Government Loaned Vehicles.

(c) Dealer, motorcycle dealer, manufacturer and dealer transit license plates (see Section 40-12-264).

(d) Temporary license plates.

(28) Under the provisions of Section 40-12-262, a non-resident moving to the State of Alabama with a current and valid out-of-state registration has 30 days following the date the vehicle enters the state to obtain an Alabama registration. Anyone failing to timely register their vehicle is subject to a registration penalty under Section 32-6-65**(b)**. Note that this 30-day period is based on the vehicle owner having a current and valid out-of-state registration; if not, the vehicle must be registered immediately. Provided, if the vehicle is exempt from registration in its former base jurisdiction, registration for the vehicle must be accomplished within 20 days following the date the vehicle enters the state.

(29) Section 40-12-249**(b)** provides for a 25% penalty on the difference between fees paid and fees due when someone is cited with operating a vehicle with the incorrect class of license plate. This penalty refers to situations where the registrant's vehicle is improperly registered with a lower weight license plate category than required, or when the registrant is operating a vehicle with one class license plate when another class license plate is required.

(30) In situations where a vehicle is operated during the renewal month(s), after the previous registration **expired expires** with an improper class license plate, the operator can be cited for improper license plate for the **full** previous registration year **with credit for the license previously obtained**, with the 25% penalty applicable **to the net amount due**. Additionally, the registrant would owe registration fees for the proper classification of license plate for the current registration period.

(31) In the event a person acquires a vehicle in a month other than their designated renewal month, and registers it with an improper classification license plate, the 25% penalty shall be based on the difference between the prorated fees for the

license plate classification that should have been obtained beginning for the month the vehicle was acquired, and the prorated fees for the license plate classification that was obtained.

(32) Section 40-12-10(~~d~~) authorizes the collection of a citation fee when a "Notice to Obtain License Plate" is issued, and requires that the issuing official collect the citation fee "before issuing any license."

(33) The term "citation" as used in Section 40-12-249(~~b~~) refers to the "Notice to Obtain License Plate" as authorized in Section 40-12-10, and does not refer to Uniform Traffic Tickets.

(34) Section 40-12-10(~~e~~) requires the license plate issuing official to collect interest when issuing a delinquent motor vehicle registration. Interest charges are calculated based on the provisions of Section 40-1-44, with the Department of Revenue providing notice of interest rate changes to the license plate issuing officials.

Author: Sherry Helms, James P. Starling
Authority: Sections 40-2A-7(a)(5), ~~32-6-53~~ ~~32-6-61~~, ~~32-6-65~~, ~~40-12-242~~, ~~40-12-260~~ and ~~40-12-264~~ 40-12-272, Code of Alabama 1975
History: Adopted through APA November 2, 2004, effective December 7, 2004.
Amended: Filed January 11, 2011, effective February 15, 2011.
Amended: Filed December 6, 2011, effective January 10, 2012.