

B-Engrossed
House Bill 2564

Ordered by the Senate May 27
Including House Amendments dated April 23 and Senate Amendments
dated May 27

Sponsored by COMMITTEE ON TRANSPORTATION (at the request of Oregon Vehicle Dealer Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies requirements relating to hours of operation for testing stations that conduct motor vehicle pollution control system inspections.

Changes exemption relating to special crossing procedures for vehicles crossing industry track crossings from applying to districts in which designated speed is 20 miles per hour or less to applying to business districts.

Exempts vehicle dealer licensed in another state and dealer's authorized representatives from vehicle dealer certification requirement when dealer or authorized representative participates in vehicle auction conducted by certified vehicle dealer.

A BILL FOR AN ACT

1
2 Relating to motor vehicles; amending ORS 468A.387, 811.465, 822.015, 822.060, 822.070, 822.093 and
3 822.094.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 468A.387 is amended to read:

6 468A.387. (1) The Department of Environmental Quality shall establish flexible weekday operat-
7 ing schedules for testing stations that conduct motor vehicle pollution control system inspections
8 described under ORS 468A.365 that extend the hours of operation [*to 9 p.m.*] **beyond 5 p.m.** for some
9 testing stations for some days of the week.

10 (2) After determining the hours of operation for testing stations under subsection (1) of this
11 section, the department shall advertise the hours of operation in as many ways as practicable, in-
12 cluding but not limited to:

13 (a) Enclosing information about the hours of operation in all mailings and notices related to
14 motor vehicle emission testing and motor vehicle registration renewal notices;

15 (b) Posting the hours of operation at Department of Transportation field offices;

16 (c) Broadcasting public service announcements; and

17 (d) Using appropriate Internet and other electronic media services that may be available.

18 **SECTION 2.** ORS 811.465 is amended to read:

19 811.465. This section establishes exemptions from the special crossing procedures established for
20 high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the
21 following:

22 (1) The vehicles are not required to comply with the procedures at a crossing of a street or
23 highway and rail fixed guideway system tracks if:

24 (a) The rail fixed guideway system vehicles operate within and parallel to the right of way of

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 a street or highway; and

2 (b) All vehicle movements are controlled by traffic control devices.

3 (2) The vehicles are not required to comply with the procedures when crossing any railway
4 tracks upon which operation has been abandoned and for which the Department of Transportation
5 has plainly marked that no stop need be made.

6 (3) The vehicles are not required to comply with the procedures when crossing industry track
7 crossings across which train operations are required by law to be conducted under flag protection.

8 (4) The vehicles are not required to comply with the procedures when crossing industry track
9 crossings within **business** districts [*in which the designated speed of vehicles is 20 miles per hour or*
10 *less*].

11 (5) Vehicles are not required to comply with the procedures when crossing any crossing where
12 an officer directs traffic to proceed or where an operating traffic control signal indicates that other
13 traffic may proceed.

14 (6) Vehicles are not required to comply with the procedures when crossing any crossing pro-
15 tected by crossing gates. The exemption under this subsection does not apply to:

16 (a) School buses or school activity vehicles that are required to stop at crossings with crossing
17 gates under ORS 811.460;

18 (b) Tank vehicles, whether loaded or empty, used to transport hazardous materials;

19 (c) Vehicles transporting any hazardous material requiring the vehicle to be placarded; or

20 (d) High-risk vehicles described in ORS 811.460 that are not otherwise described in this sub-
21 section, when operating in interstate commerce.

22 (7) Except when a train or rail fixed guideway system vehicle is approaching, the driver of a
23 commercial bus is not required to stop at crossings where the Department of Transportation has
24 determined and plainly marked that no stop need be made.

25 **SECTION 3.** ORS 822.015 is amended to read:

26 822.015. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005
27 does not apply to the following vehicles or persons:

28 [(1)] (a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency
29 vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or
30 less.

31 [(2)] (b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the
32 person owned the vehicle primarily for personal, family or household purposes. If the person has
33 sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar
34 year, the person shall have the burden of proving that the person owned the vehicles primarily for
35 personal, family or household purposes or for other purposes that the Department of Transportation,
36 by rule, defines as constituting an exemption under this section.

37 [(3)] (c) A receiver, trustee, personal representative or public officer while performing any offi-
38 cial duties.

39 [(4)] (d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued
40 by any jurisdiction.

41 [(5)] (e) Except as otherwise provided in this [subsection] **paragraph**, a manufacturer who sells
42 vehicles the manufacturer has manufactured in Oregon. Nothing in this [subsection] **paragraph**
43 prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This
44 [subsection] **paragraph** does not exempt a manufacturer who sells or trades campers or travel
45 trailers.

1 [(6)] (f) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is
2 disposing of vehicles for salvage.

3 [(7)] (g) Except as otherwise provided in this [subsection] **paragraph**, a person who sells or
4 trades or offers to sell or trade a vehicle that has been used in the operation of the person's busi-
5 ness. This [subsection] **paragraph** does not exempt a person who is in the business of selling, trad-
6 ing, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate
7 for dealing in those vehicles.

8 [(8)] (h) A person who is licensed as a vehicle dealer in another jurisdiction, **or who is an**
9 **authorized representative of a vehicle dealer licensed in another jurisdiction, and** who [is
10 *participating*]:

11 **(A) Participates** with other dealers in a display of vehicles, including but not limited to an auto
12 show[. *This subsection applies only*], if the display is an event that lasts for 10 days or less and is
13 an event for which the public is charged admission[.]; **or**

14 **(B) Participates in a vehicle auction conducted by a vehicle dealer who holds a vehicle**
15 **dealer certificate issued or renewed under ORS 822.020 or 822.040, provided that only certified**
16 **or licensed vehicle dealers and their authorized representatives are permitted to participate**
17 **in the auction.**

18 [(9)] (i) A person who receives no money, goods or services, either directly or indirectly, for
19 displaying a vehicle or acting as an agent in the buying or selling of a vehicle.

20 [(10)] (j) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle
21 parts for the person's own use in order to preserve, restore and maintain vehicles for the person's
22 own use or for hobby or historical purposes.

23 [(11)] (k) A manufactured structure dealer subject to the licensing requirement of ORS 446.671
24 or a person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer
25 accepted in trade as part of a manufactured structure transaction. A manufactured structure deal-
26 ership or exempt person may not directly sell more than three vehicles per calendar year under
27 authority of this [subsection] **paragraph**, but by consignment with a dealer certified under ORS
28 822.020 or 822.040 may sell an unlimited number of vehicles acquired as described in this
29 [subsection] **paragraph**.

30 [(12)] (L) A lien claimant who sells vehicles in order to foreclose possessory liens.

31 [(13)] (m) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien
32 claimant acquired through possessory liens if the vehicles are sold at the business location of the
33 lien claimant.

34 [(14)] (n) Electric personal assistive mobility devices.

35 **(2) The department shall adopt rules to carry out the provisions of this section, including**
36 **but not limited to specifying which dealers may take vehicles on consignment from other**
37 **jurisdictions.**

38 **SECTION 4.** ORS 822.060 is amended to read:

39 822.060. (1) A [vehicle dealer issued a certificate under ORS 822.020] **person who holds a vehicle**
40 **dealer certificate issued or renewed under ORS 822.020 or 822.040** commits the offense of illegal
41 consignment practices if the [dealer] **person** does any of the following:

42 (a) Takes a vehicle on consignment from a person who [*is not a certified dealer*] **does not hold**
43 **a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040, or who is not li-**
44 **icensed as a vehicle dealer in another jurisdiction, and who** does not have proof that the
45 consignor is the registered owner, a security interest holder or lessor of the vehicle.

1 (b) Takes a vehicle on consignment from a security interest holder without the security interest
2 holder first completing a repossession action prior to consigning the vehicle and providing the
3 dealer with proper documentary proof of the repossession action.

4 (c) Takes a vehicle on consignment and does not have the terms of the consignment agreement
5 in writing and provide a copy of the agreement to the consignor. The agreement shall include a
6 provision stating that if the terms of the agreement are not met, the consignor may file a complaint
7 in writing with the Department of Transportation, Salem, Oregon.

8 (d) Sells a vehicle that the dealer has on consignment and does not pay the consignor within
9 10 days of the sale.

10 (e) Sells a vehicle that the dealer has on consignment and does not either provide the purchaser
11 with a certificate of title to the vehicle or with other primary ownership records in the form of
12 documents or apply to the department in the purchaser's name for title to the vehicle within 30 days
13 of the sale in a manner provided by the department by rule.

14 (f) Does not allow the department or any duly authorized representative to inspect and audit
15 any records of any separate accounts into which the dealer deposits any funds received or handled
16 by the dealer or in the course of business as a dealer from consignment sale of vehicles at such
17 times as the department may direct.

18 (g) Takes any part of any money paid to the dealer in connection with any consignment trans-
19 action as part or all of the dealer's commission or fee until the transaction has been completed or
20 terminated.

21 (h) Does not make arrangement for the disposition of money from a consignment transaction
22 with the seller at the time of establishing a consignment agreement.

23 (i) Sells a vehicle that the dealer has taken on consignment without first giving the purchaser
24 the following disclosure in writing:

25 _____

26
27 DISCLOSURE REGARDING
28 CONSIGNMENT SALE

29
30 _____ (Name of Dealer) is selling the following described vehicle:
31 _____ (Year) _____ (Make) _____ (Model) _____ (Vehicle Identification Num-
32 ber) on consignment.

33
34 [] There is a security interest in this vehicle.

35 [] There is not a security interest in this vehicle.

36
37 YOU SHOULD TAKE ACTION TO ENSURE THAT ANY SECURITY INTERESTS ARE RE-
38 LEASED AND THAT THE TITLE TO THE VEHICLE IS TRANSFERRED TO YOU. OTHERWISE,
39 YOU MAY TAKE TITLE SUBJECT TO ANY UNSATISFIED SECURITY INTERESTS.

40 _____

41
42 (2) The offense described in this section, illegal consignment practices, is a Class A
43 misdemeanor.

44 (3) The department shall adopt rules to carry out the provisions of this section, including
45 but not limited to rules to specify which persons may take and sell vehicles on consignment

1 **and to regulate the taking and selling of vehicles on consignment from other jurisdictions.**

2 **SECTION 5.** ORS 822.070 is amended to read:

3 822.070. (1) A person commits the offense of conducting an illegal vehicle rebuilding business if
4 the person is not the holder of a valid current dealer certificate issued under ORS 822.020 and the
5 person does any of the following as part of a business:

6 (a) Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles.

7 (b) Engages in making assembled, reconstructed or substantially altered vehicles from motor
8 vehicle components.

9 (2) This section does not apply to the following persons or vehicles:

10 (a) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is dis-
11 posing of vehicles for salvage.

12 (b) Vehicles or persons exempt from the vehicle dealer certificate requirements by ORS 822.015
13 [(1) or (10)] **(1)(a) or (j)**.

14 (c) Motor vehicles that are not of a type required to be registered under the vehicle code.

15 (d) The holder of a dismantler certificate issued under ORS 822.110.

16 (3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a
17 Class A misdemeanor.

18 **SECTION 6.** ORS 822.093 is amended to read:

19 822.093. (1) Notwithstanding ORS 822.015 [(12) or (13)] **(1)(L) or (m)**, a lien claimant who sells
20 or offers for sale vehicles being sold to foreclose possessory liens, or sells or offers for sale vehicles
21 acquired through possessory liens, shall keep records sufficient to establish that all vehicles being
22 sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records
23 kept in accordance with this subsection must be made available to the Department of Transportation
24 on request.

25 (2) The department may adopt such rules as are necessary to carry out the provisions of this
26 section, including but not limited to rules that:

27 (a) Specify the form in which the records must be kept, how the records must be maintained and
28 the period for which they must be retained.

29 (b) Specify how the records will be provided to the department if requested.

30 (c) Specify how lien claimants will notify the department when vehicles are sold to foreclose
31 possessory liens and when vehicles acquired through possessory liens are sold.

32 (3) Rules adopted under this section shall be developed in consultation with representatives of
33 those lien claimants who may be affected by this section, including but not limited to towing busi-
34 ness operators.

35 (4) The department may impose a civil penalty, in an amount not to exceed \$1,000 for each vi-
36 olation, against any person who violates this section or any rules adopted by the department under
37 this section. Civil penalties shall be imposed as provided in ORS 183.745.

38 **SECTION 7.** ORS 822.094 is amended to read:

39 822.094. A sale, consignment or other transfer by a lien claimant does not constitute a sale for
40 purposes of ORS 822.015 [(13)] **(1)(m)** if the sale, consignment or other transfer is to the holder of
41 a current, valid dismantler certificate issued under ORS 822.110 or to the holder of a current, valid
42 vehicle dealer certificate issued under ORS 822.020.

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