

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2564

By COMMITTEE ON BUSINESS AND TRANSPORTATION

May 27

1 On page 1 of the printed A-engrossed bill, line 2, delete “and 811.465” and insert “, 811.465,
2 822.015, 822.060, 822.070, 822.093 and 822.094”.

3 On page 2, after line 25, insert:

4 “**SECTION 3.** ORS 822.015 is amended to read:

5 “822.015. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS
6 822.005 does not apply to the following vehicles or persons:

7 “[1] (a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency
8 vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or
9 less.

10 “[2] (b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the
11 person owned the vehicle primarily for personal, family or household purposes. If the person has
12 sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar
13 year, the person shall have the burden of proving that the person owned the vehicles primarily for
14 personal, family or household purposes or for other purposes that the Department of Transportation,
15 by rule, defines as constituting an exemption under this section.

16 “[3] (c) A receiver, trustee, personal representative or public officer while performing any of-
17 ficial duties.

18 “[4] (d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued
19 by any jurisdiction.

20 “[5] (e) Except as otherwise provided in this [subsection] **paragraph**, a manufacturer who sells
21 vehicles the manufacturer has manufactured in Oregon. Nothing in this [subsection] **paragraph**
22 prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This
23 [subsection] **paragraph** does not exempt a manufacturer who sells or trades campers or travel
24 trailers.

25 “[6] (f) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is
26 disposing of vehicles for salvage.

27 “[7] (g) Except as otherwise provided in this [subsection] **paragraph**, a person who sells or
28 trades or offers to sell or trade a vehicle that has been used in the operation of the person’s busi-
29 ness. This [subsection] **paragraph** does not exempt a person who is in the business of selling, trad-
30 ing, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate
31 for dealing in those vehicles.

32 “[8] (h) A person who is licensed as a vehicle dealer in another jurisdiction, **or who is an**
33 **authorized representative of a vehicle dealer licensed in another jurisdiction, and** who [is
34 participating]:

35 “(A) **Participates** with other dealers in a display of vehicles, including but not limited to an

1 auto show[. *This subsection applies only*], if the display is an event that lasts for 10 days or less and
2 is an event for which the public is charged admission[.]; or

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

7 “[9] (i) A person who receives no money, goods or services, either directly or indirectly, for
8 displaying a vehicle or acting as an agent in the buying or selling of a vehicle.

9 “[10] (j) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle
10 parts for the person’s own use in order to preserve, restore and maintain vehicles for the person’s
11 own use or for hobby or historical purposes.

12 “[11] (k) A manufactured structure dealer subject to the licensing requirement of ORS 446.671
13 or a person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer
14 accepted in trade as part of a manufactured structure transaction. A manufactured structure deal-
15 ership or exempt person may not directly sell more than three vehicles per calendar year under
16 authority of this [subsection] **paragraph**, but by consignment with a dealer certified under ORS
17 822.020 or 822.040 may sell an unlimited number of vehicles acquired as described in this
18 [subsection] **paragraph**.

19 “[12] (L) A lien claimant who sells vehicles in order to foreclose possessory liens.

20 “[13] (m) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien
21 claimant acquired through possessory liens if the vehicles are sold at the business location of the
22 lien claimant.

23 “[14] (n) Electric personal assistive mobility devices.

24 **“(2) The department shall adopt rules to carry out the provisions of this section, includ-**
25 **ing but not limited to specifying which dealers may take vehicles on consignment from other**
26 **jurisdictions.**

27 **“SECTION 4.** ORS 822.060 is amended to read:

28 **“822.060. (1) A [vehicle dealer issued a certificate under ORS 822.020] person who holds a ve-**
29 **hicle dealer certificate issued or renewed under ORS 822.020 or 822.040** commits the offense of
30 illegal consignment practices if the [dealer] **person** does any of the following:

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

35 **“(b) Takes a vehicle on consignment from a security interest holder without the security interest**
36 **holder first completing a repossession action prior to consigning the vehicle and providing the**
37 **dealer with proper documentary proof of the repossession action.**

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

42 **“(d) Sells a vehicle that the dealer has on consignment and does not pay the consignor within**
43 **10 days of the sale.**

44 **“(e) Sells a vehicle that the dealer has on consignment and does not either provide the pur-**
45 **chaser with a certificate of title to the vehicle or with other primary ownership records in the form**

1 of documents or apply to the department in the purchaser's name for title to the vehicle within 30
2 days of the sale in a manner provided by the department by rule.

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

7 "(g) Takes any part of any money paid to the dealer in connection with any consignment
8 transaction as part or all of the dealer's commission or fee until the transaction has been completed
9 or terminated.

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

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

14 " _____

15
16 DISCLOSURE REGARDING
17 CONSIGNMENT SALE
18

19 _____ (Name of Dealer) is selling the following described vehicle:
20 _____ (Year) _____ (Make) _____ (Model) _____ (Vehicle Identification Num-
21 ber) on consignment.

22
23 [] There is a security interest in this vehicle.

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

25
26 YOU SHOULD TAKE ACTION TO ENSURE THAT ANY SECURITY INTERESTS ARE RE-
27 LEASED AND THAT THE TITLE TO THE VEHICLE IS TRANSFERRED TO YOU. OTHERWISE,
28 YOU MAY TAKE TITLE SUBJECT TO ANY UNSATISFIED SECURITY INTERESTS.

29 " _____

30
31 "(2) The offense described in this section, illegal consignment practices, is a Class A
32 misdemeanor.

33 "(3) **The department shall adopt rules to carry out the provisions of this section, includ-**
34 **ing but not limited to rules to specify which persons may take and sell vehicles on consign-**
35 **ment and to regulate the taking and selling of vehicles on consignment from other**
36 **jurisdictions.**

37 "**SECTION 5.** ORS 822.070 is amended to read:

38 "822.070. (1) A person commits the offense of conducting an illegal vehicle rebuilding business
39 if the person is not the holder of a valid current dealer certificate issued under ORS 822.020 and the
40 person does any of the following as part of a business:

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

42 "(b) Engages in making assembled, reconstructed or substantially altered vehicles from motor
43 vehicle components.

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

45 "(a) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is dis-

1 posing of vehicles for salvage.

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

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

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

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

8 “**SECTION 6.** ORS 822.093 is amended to read:

9 “822.093. (1) Notwithstanding ORS 822.015 [(12) or (13)] **(1)(L) or (m)**, a lien claimant who sells
10 or offers for sale vehicles being sold to foreclose possessory liens, or sells or offers for sale vehicles
11 acquired through possessory liens, shall keep records sufficient to establish that all vehicles being
12 sold or offered for sale were acquired by the lien claimant as the result of a possessory lien. Records
13 kept in accordance with this subsection must be made available to the Department of Transportation
14 on request.

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

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

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

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

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

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

28 “**SECTION 7.** ORS 822.094 is amended to read:

29 “822.094. A sale, consignment or other transfer by a lien claimant does not constitute a sale for
30 purposes of ORS 822.015 [(13)] **(1)(m)** if the sale, consignment or other transfer is to the holder of
31 a current, valid dismantler certificate issued under ORS 822.110 or to the holder of a current, valid
32 vehicle dealer certificate issued under ORS 822.020.”.

33