

House Bill 2568

Sponsored by COMMITTEE ON TRANSPORTATION

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 **as introduced**.

Directs Department of Transportation to refuse issuance or renewal of vehicle dealer certificate or cancel certificate if person is convicted of felony of moral turpitude.

Requires certification of vehicle salespersons. Directs department to provide education for vehicle salespersons.

Creates offense of vehicle dealer employing uncertified vehicle salesperson. Punishes by maximum fine of \$360.

A BILL FOR AN ACT

1
2 Relating to motor vehicles; creating new provisions; and amending ORS 184.642, 802.031, 822.007,
3 822.009, 822.045, 822.050 and 822.700.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of the Oregon Vehicle**
6 **Code.**

7 **SECTION 2. Notwithstanding ORS 822.020 and 822.035, the Department of Transportation**
8 **shall refuse to issue or renew a vehicle dealer certificate to an applicant if:**

9 (1) **The department has reasonable grounds to believe that the applicant has been con-**
10 **victed, within the past 10 years, of a felony involving moral turpitude that would cause a**
11 **reasonable person to have substantial doubts about the individual's honesty, fairness and**
12 **respect for the rights of others and for the laws of the state and the nation. The conduct**
13 **or acts in question should be rationally connected to the applicant's fitness to act as vehicle**
14 **dealer.**

15 (2) **The department has issued a civil penalty against the applicant under ORS 822.009 and**
16 **the applicant has failed to pay the civil penalty.**

17 **SECTION 3. ORS 822.050 is amended to read:**

18 822.050. (1) The Department of Transportation may revoke, suspend or place on probation a ve-
19 hicle dealer if the department determines at any time for due cause that the dealer has done any
20 of the following:

21 (a) Violated any grounds for revocation, suspension or probation adopted by the department by
22 rule under ORS 822.035.

23 (b) Failed to comply with the requirements of the vehicle code with reference to notices or re-
24 ports of the transfer of vehicles or campers.

25 (c) Caused or suffered or is permitting the unlawful use of any certificate or registration plates.

26 (d) Violated or caused or permitted to be violated ORS 815.410, 815.415, 815.425 or 815.430.

27 (e) Falsely certified under ORS 822.033 that the dealer is exempt from the requirement under
28 ORS 822.020 or 822.040 to file a certificate of insurance.

29 (f) Continued to fail to provide clear title or repeatedly failed to provide clear title in violation

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 of ORS 822.045.

2 (g) Knowingly certified false information required by the department on an application for a
 3 vehicle dealer certificate, supplemental certificate or corrected certificate.

4 (2) The department shall cancel a vehicle dealer certificate 45 days after receipt of legal notice
 5 that the bond described under ORS 822.030 is canceled, unless the department receives proof from
 6 the vehicle dealer that the dealer has obtained another bond. Between the day that the department
 7 receives notice that the bond is canceled and the day the vehicle dealer presents proof of another
 8 bond, the vehicle dealer may not act as a vehicle dealer.

9 (3) The department shall cancel a vehicle dealer certificate 45 days after receipt of notice that
 10 the certificate of insurance required under ORS 822.033 is canceled, unless the department receives
 11 proof from the vehicle dealer that the dealer has obtained another certificate of insurance. Between
 12 the day that the department receives notice that the certificate of insurance is canceled and the day
 13 the vehicle dealer presents proof of another certificate of insurance, the vehicle dealer may not act
 14 as a vehicle dealer.

15 (4) The department shall cancel a vehicle dealer certificate immediately upon receipt of notice
 16 that zoning approval for the business has been revoked.

17 **(5) The department shall cancel a vehicle dealer certificate if the department has rea-**
 18 **sonable grounds to believe that the vehicle dealer has been convicted, within the past 10**
 19 **years, of a felony involving moral turpitude that would cause a reasonable person to have**
 20 **substantial doubts about the individual's honesty, fairness and respect for the rights of oth-**
 21 **ers and for the laws of the state and the nation. The conduct or acts in question should be**
 22 **rationally connected to the applicant's fitness to act as vehicle dealer.**

23 [(5)] (6) Upon revocation, cancellation or suspension of a vehicle dealer certificate under this
 24 section, the department shall recall and demand the return of the certificate and any vehicle dealer
 25 plates issued.

26 **SECTION 4. Sections 5 to 11 of this 2009 Act are added to and made a part of the Oregon**
 27 **Vehicle Code.**

28 **SECTION 5. (1) Except as provided in subsection (2) of this section, a person may not act**
 29 **as a vehicle salesperson unless the person holds a valid, current vehicle salesperson certif-**
 30 **icate issued under section 7 of this 2009 Act. A person acts as a vehicle salesperson if the**
 31 **person is employed by a person who holds a vehicle dealer certificate issued or renewed un-**
 32 **der ORS 822.020 or 822.040 to buy, sell, trade or exchange vehicles either outright or by**
 33 **means of any conditional sale, bailment, lease, security interest or consignment.**

34 (2) A person may act as a vehicle salesperson if:

35 (a) The person holds a vehicle dealer certificate issued or renewed under ORS 822.020 or
 36 822.040; or

37 (b) The person holds a temporary vehicle salesperson certificate issued under section 6
 38 of this 2009 Act.

39 (3) The Department of Transportation shall adopt a form of application to be used by
 40 persons applying for a vehicle salesperson certificate. The department may require any in-
 41 formation the department considers necessary, including but not limited to payroll records
 42 indicating that the person is employed by a person who holds a vehicle dealer certificate.

43 **SECTION 6. (1) The Department of Transportation may issue a 30-day temporary vehicle**
 44 **salesperson certificate to a person if the person has submitted an application for a vehicle**
 45 **salesperson certificate to the department under section 7 of this 2009 Act.**

1 **(2) The department may not issue more than one temporary vehicle salesperson certifi-**
 2 **cate to a person in a calendar year.**

3 **SECTION 7. (1) The Department of Transportation shall issue a vehicle salesperson cer-**
 4 **tificate to a person if the person:**

5 **(a) Completes the application for a vehicle salesperson certificate described in section 5**
 6 **of this 2009 Act.**

7 **(b) Delivers to the department a bond or letter of credit that meets the requirements**
 8 **described in section 9 of this 2009 Act.**

9 **(c) Pays the fee required by ORS 822.700 for issuance of a vehicle salesperson certificate.**

10 **(d) Certifies completion of the education and test requirements described in section 8 of**
 11 **this 2009 Act.**

12 **(2) The department may not issue a vehicle salesperson certificate:**

13 **(a) To a person who has been convicted, within the past 10 years, of a felony involving**
 14 **moral turpitude that would cause a reasonable person to have substantial doubts about the**
 15 **individual's honesty, fairness and respect for the rights of others and for the laws of the**
 16 **state and the nation. The conduct or acts in question should be rationally connected to the**
 17 **applicant's fitness to act as vehicle salesperson.**

18 **(b) If the department has canceled, revoked or suspended the person's vehicle dealer**
 19 **certificate under ORS 822.050.**

20 **SECTION 8. (1) Prior to submitting an application for initial issuance of a vehicle**
 21 **salesperson certificate, a person must complete a minimum of three hours of approved edu-**
 22 **cation described in subsection (3) of this section and must pass a test. At least one hour of**
 23 **the approved education must include information about business ethics.**

24 **(2) Prior to submitting an application for renewal of a vehicle salesperson certificate, a**
 25 **person must complete a minimum of three hours of approved continuing education described**
 26 **in subsection (3) of this section. At least one hour of the continuing education must include**
 27 **information about business ethics.**

28 **(3) The Department of Transportation shall provide the education and the test required**
 29 **by subsections (1) and (2) of this section. In providing the education, the department shall**
 30 **consider any training standards adopted or used in the vehicle sales industry.**

31 **(4) The education and the test required by subsections (1) and (2) of this section may be**
 32 **provided by accredited educational institutions, private vocational schools, correspondence**
 33 **schools or trade associations if the education and the test have been approved by the advi-**
 34 **sory committee established under ORS 802.370.**

35 **SECTION 9. (1) A bond or letter of credit required to qualify for issuance of a vehicle**
 36 **salesperson certificate under section 7 of this 2009 Act or to qualify for renewal of a certifi-**
 37 **cate under section 10 of this 2009 Act must comply with all of the following:**

38 **(a) A bond must have a corporate surety licensed to do business within this state. A**
 39 **letter of credit must be an irrevocable letter of credit issued by an insured institution, as**
 40 **defined in ORS 706.008. The surety or institution shall notify the Department of Transporta-**
 41 **tion if the bond or letter of credit is canceled for any reason. The surety or institution con-**
 42 **tinues to be liable under the bond or letter of credit until the department receives the notice**
 43 **required by this paragraph, or until the cancellation date specified in the notice, whichever**
 44 **is later.**

45 **(b) The bond or letter of credit shall be executed to the State of Oregon.**

1 (c) The bond or letter of credit shall be for the sum of \$5,000.

2 (d) The Attorney General shall approve the form of the bond or letter of credit.

3 (e) The bond or letter of credit must contain a condition that the person issued the ve-
4 hicle salesperson certificate shall conduct business as a vehicle salesperson without fraud
5 or fraudulent representation and without violating any provisions of the Oregon Vehicle Code
6 relating to vehicle sales.

7 (f) The bond or letter of credit must be filed and held in the office of the department.

8 (g) The vehicle salesperson shall purchase a bond or letter of credit as described in this
9 subsection every two years, on or before each anniversary of the issuance of the vehicle
10 salesperson's certificate.

11 (2) Any person shall have a right of action against a vehicle salesperson, against the
12 surety on the vehicle salesperson's bond and against the letter of credit in the person's own
13 name if the person suffers any loss or damage by reason of the vehicle salesperson's fraud,
14 fraudulent representations or violations of provisions of the Oregon Vehicle Code relating to
15 the regulation of vehicle salespersons.

16 (3) If the certificate of a vehicle salesperson is not renewed or is voluntarily or involun-
17 tarily canceled, the surety on the bond and the issuer of the letter of credit are relieved from
18 liability that accrues after the department cancels the certificate.

19 SECTION 10. (1) A vehicle salesperson certificate is valid for a two-year period and may
20 be renewed. The Department of Transportation shall renew a certificate if the applicant for
21 renewal does the following:

22 (a) Pays the required fee for renewal under ORS 822.700;

23 (b) Delivers to the department a bond or letter of credit that meets the requirements of
24 section 9 of this 2009 Act; and

25 (c) Certifies completion of the education requirements under section 8 of this 2009 Act.

26 (2) Notwithstanding subsection (1) of this section, a person may not apply for renewal
27 of a vehicle salesperson certificate if:

28 (a) The department has reasonable grounds to believe that the applicant has been con-
29 victed, within the past 10 years, of a felony involving moral turpitude that would cause a
30 reasonable person to have substantial doubts about the individual's honesty, fairness and
31 respect for the rights of others and for the laws of the state and the nation. The conduct
32 or acts in question should be rationally connected to the applicant's fitness to act as vehicle
33 dealer.

34 (b) The department has issued a civil penalty against the applicant under ORS 822.009 and
35 the applicant has failed to pay the civil penalty.

36 SECTION 11. (1) The Department of Transportation may adopt any reasonable rules
37 necessary for the administration of the laws relating to the regulation of vehicle
38 salespersons and the issuance of vehicle salesperson certificates. The rules adopted under
39 this section must be consistent with the statutory provisions of the vehicle code. The rules
40 may include, but are not limited to, grounds and procedures for the revocation, denial or
41 suspension of vehicle salesperson certificates and for placing vehicle salespersons on
42 probationary status.

43 (2) The Department of Transportation may revoke, suspend or place on probation a ve-
44 hicle salesperson if the department determines at any time for due cause that the
45 salesperson violated any grounds for revocation, suspension or probation adopted by the de-

1 **partment by rule under subsection (1) of this section.**

2 **(3) The Department of Transportation shall cancel the vehicle salesperson certificate of**
 3 **any vehicle salesperson who has been convicted, within the past 10 years, of a felony in-**
 4 **volving moral turpitude that would cause a reasonable person to have substantial doubts**
 5 **about the individual's honesty, fairness and respect for the rights of others and for the laws**
 6 **of the state and the nation. The conduct or acts in question should be rationally connected**
 7 **to the applicant's fitness to act as vehicle salesperson.**

8 **SECTION 12.** ORS 802.031 is amended to read:

9 802.031. (1) Nothing in ORS 802.600 prohibits the Department of Transportation from adopting
 10 rules that take effect after April 1, 1998, that allow the department to designate **vehicle** dealers to
 11 act as agents of the department for purpose of performing the duties specified in ORS 802.030 (1995
 12 Edition) and that allow persons to act as agents for the department for the purpose of issuing winter
 13 recreation parking permits.

14 **(2) The department may not allow a vehicle salesperson to act as agent of the department**
 15 **for purpose of performing the duties specified in ORS 802.030 (1995 Edition).**

16 **SECTION 13.** ORS 822.007 is amended to read:

17 822.007. (1) In addition to any other remedies provided by law, the Department of Transportation
 18 may petition the circuit court to enjoin a person from acting as a vehicle dealer **or vehicle**
 19 **salesperson** in violation of the Oregon Vehicle Code or any rule adopted by the department.

20 (2) A single act in violation of the provisions of the Oregon Vehicle Code or of any rules
 21 adopted by the department relating to vehicle dealers **or vehicle salespersons** shall be sufficient
 22 ground for the court to issue the injunction.

23 (3) In addition to issuing an injunction, the court may assess a penalty not to exceed \$15,000 if
 24 the department proves by a preponderance of the evidence that a person is acting as a vehicle
 25 dealer without possessing a vehicle dealer certificate **or is acting as a vehicle salesperson with-**
 26 **out possessing either a temporary vehicle salesperson certificate or a vehicle salesperson**
 27 **certificate.** The court shall also award reasonable costs and disbursements, attorney and enforce-
 28 ment fees.

29 **SECTION 14.** ORS 822.009 is amended to read:

30 822.009. (1) The Department of Transportation may levy and collect a civil penalty, in an amount
 31 not to exceed \$1,000 for each violation, against any person who has a vehicle dealer certificate, **a**
 32 **temporary vehicle salesperson certificate or a vehicle salesperson certificate** if it finds that
 33 the dealer **or salesperson** has violated any provisions of the Oregon Vehicle Code or of any rules
 34 adopted by the department relating to the sale of vehicles, vehicle titling or vehicle registration.

35 (2) The department may levy and collect a civil penalty, in an amount not to exceed \$5,000 for
 36 each vehicle improperly sold, brokered, exchanged or offered or displayed for sale, against any per-
 37 son if it finds that the person is in violation of:

38 (a) ORS 822.005 (1); or

39 (b) Any rules adopted by the department relating to the sale of vehicles and the person is not
 40 subject to subsection (1) of this section.

41 **(3) The department may levy and collect a civil penalty, in an amount not to exceed \$1,000**
 42 **for each vehicle improperly sold, brokered, exchanged or offered or displayed for sale, against**
 43 **any person if it finds that the person is in violation of:**

44 (a) **Section 6 of this 2009 Act;**

45 (b) **Section 7 of this 2009 Act;**

1 (c) **ORS 822.045 (1)(o); or**

2 (d) **Any rules adopted by the department relating to the sale of vehicles and the person**
3 **is not subject to subsection (1) of this section.**

4 **SECTION 15.** ORS 822.045 is amended to read:

5 822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the
6 penalties under this section if the vehicle dealer commits any of the following offenses:

7 (a) A vehicle dealer commits the offense of failure to obtain a supplemental vehicle dealer cer-
8 tificate if the vehicle dealer opens any additional place of business using the same business name
9 as a place of business approved under a vehicle dealer certificate without first obtaining a supple-
10 mental dealer certificate under ORS 822.040.

11 (b) A vehicle dealer commits the offense of failure to obtain a corrected vehicle dealer certif-
12 icate if the dealer moves a place of business or changes the business name without first obtaining
13 a corrected dealer certificate under ORS 822.040.

14 (c) A vehicle dealer commits the offense of failure to maintain proper vehicle dealer records if
15 the dealer does not keep records or books with all of the following information concerning any used
16 or secondhand vehicles or campers the dealer deals with:

17 (A) A record of the purchase, sale or exchange or of the dealer's receipt for purpose of sale.

18 (B) A description of the vehicle or camper.

19 (C) The name and address of the seller, the purchaser and the alleged owner or other person
20 from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.

21 (D) For motor vehicles, the vehicle identification number and any other numbers or identifica-
22 tion marks as may be thereon and a statement that a number has been obliterated, defaced or
23 changed, if such is a fact.

24 (E) For trailers and campers, the vehicle identification number and any other numbers or iden-
25 tification marks as may be thereon.

26 (F) A duly assigned certificate of title or other primary ownership record or a bill of sale from
27 the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer
28 disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate,
29 or if the primary ownership record is in a form other than a document, a dealer shall keep records
30 in accordance with rules adopted by the Department of Transportation for the purpose of complying
31 with this subparagraph.

32 (d) A vehicle dealer commits the offense of failure to allow administrative inspection if the
33 dealer refuses to allow the department to conduct an inspection under ORS 822.035 at any time
34 during normal business hours.

35 (e) A vehicle dealer commits the offense of failure to allow police inspection if the dealer refuses
36 to allow any police officer to conduct an inspection under ORS 810.480 at any time during normal
37 business hours.

38 (f) A vehicle dealer commits the offense of illegal use of dealer vehicle for hire if the dealer
39 allows any vehicle operated under vehicle dealer registration to be loaned or rented with or without
40 driver for hire or direct compensation.

41 (g) A vehicle dealer commits the offense of improper use of dealer plates or devices if the dealer
42 or employee of the dealer causes or permits the display or use of any special vehicle dealer regis-
43 tration plate or device on any vehicle not owned or controlled by the dealer.

44 (h) A person commits the offense of improper display of dealer plates if the person operates over
45 and along the highways of this state any unregistered vehicle owned or controlled by the dealer and

1 any dealer plates issued are not displayed in the manner provided in ORS 803.540 for the display
2 of registration plates.

3 (i) A vehicle dealer commits the offense of failure to exhibit the dealer certificate if the dealer
4 fails to permanently exhibit the certificate at the place of business of the person at all times while
5 the certificate is in force.

6 (j) Except as provided in subsection (2) of this section, a vehicle dealer commits the offense of
7 failure to provide clear title if:

8 (A) Within 15 days of transfer of any interest in a vehicle or camper to the dealer by a con-
9 sumer, the dealer fails to satisfy:

10 (i) The interest of any person from whom the dealer purchased or obtained the vehicle or
11 camper;

12 (ii) The interest of any person from whom the person described in sub-subparagraph (i) of this
13 subparagraph leased the vehicle or camper; and

14 (iii) All security interests in the vehicle or camper entered into prior to the time of transfer.

15 (B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the pur-
16 chasing dealer fails to satisfy the interest of the selling dealer.

17 (k) Except as provided in subsection (3) of this section, a vehicle dealer commits the offense of
18 failure to furnish certificate of title or application for title if, within 90 calendar days of transfer
19 of any interest in a vehicle or camper by the dealer, the dealer has failed to:

20 (A) Furnish the certificate of title or other primary ownership record for the vehicle or camper
21 and any release thereon or, if title has been issued or is to be issued in a form other than a certif-
22 icate, any information or documents required by rule of the department, to the security interest
23 holder next named, if any, otherwise to the lessor or, if none, to the purchaser; or

24 (B) Submit to the department in a manner that complies with any applicable statutes and rules,
25 an application for title on behalf of the person to whom the title is to be furnished or whose name
26 is to be shown on the title record.

27 (L) A vehicle dealer commits the offense of failure to maintain bond or letter of credit coverage
28 if the dealer permits a bond or letter of credit to lapse during the period that the bond or letter of
29 credit is required under ORS 822.020 or 822.040 or if the dealer fails to purchase a bond or letter
30 of credit required by ORS 822.030.

31 (m) A person commits the offense of acting as a vehicle dealer while under revocation, cancel-
32 lation or suspension if the person conducts business as a vehicle dealer in this state and the person's
33 vehicle dealer certificate is revoked, canceled or suspended, regardless of whether the person is li-
34 censed as a vehicle dealer in another jurisdiction. This paragraph does not apply if the person has
35 other current, valid dealer certificates issued in this state.

36 (n) A vehicle dealer commits the offense of improper display of a vehicle for advertising pur-
37 poses if the dealer displays a vehicle at a location other than the dealer's place of business for the
38 purpose of advertising and the dealer does not comply with the provisions of ORS 822.040 (4).

39 **(o) A vehicle dealer commits the offense of employing an uncertified vehicle salesperson**
40 **if the vehicle dealer employs a person to buy, sell, trade or exchange vehicles either outright**
41 **or by means of any conditional sale, bailment, lease, security interest or consignment and**
42 **the person does not hold a temporary vehicle salesperson certificate issued under section 6**
43 **of this 2009 Act or a vehicle salesperson certificate issued under section 7 of this 2009 Act.**

44 (2) A dealer shall not be considered to have committed the offense described in subsection (1)(j)
45 of this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an

1 inventory financing security interest for which the dealer is the debtor.

2 (3) A dealer shall not be considered to have committed the offense described in subsection (1)(k)
3 of this section if the dealer demonstrates that:

4 (a) The dealer has made a good faith effort to comply; and

5 (b) The dealer's inability to provide title is due to circumstances beyond the dealer's control.

6 (4) The offenses described in this section are subject to the following penalties:

7 (a) The offense described in this section, failure to obtain a supplemental vehicle dealer certifi-
8 cate, is a Class A misdemeanor.

9 (b) The offense described in this section, failure to obtain a corrected vehicle dealer certificate,
10 is a Class A misdemeanor.

11 (c) The offense described in this section, failure to maintain proper vehicle dealer records, is a
12 Class A misdemeanor.

13 (d) The offense described in this section, failure to allow administrative inspection, is a Class
14 A misdemeanor.

15 (e) The offense described in this section, failure to allow police inspection, is a Class A
16 misdemeanor.

17 (f) The offense described in this section, illegal use of dealer vehicle for hire, is a Class B traffic
18 violation.

19 (g) The offense described in this section, improper use of dealer plates or devices, is a Class D
20 traffic violation.

21 (h) The offense described in this section, improper display of dealer plates, is a Class B traffic
22 violation.

23 (i) The offense described in this section, failure to exhibit the dealer certificate, is a Class A
24 misdemeanor.

25 (j) The offense described in this section, failure to provide clear title, is a Class A misdemeanor.

26 (k) The offense described in this section, failure to furnish certificate of title or application for
27 title, is a Class A misdemeanor.

28 (L) The offense described in this section, failure to maintain bond or letter of credit coverage,
29 is a Class A misdemeanor.

30 (m) The offense described in this section, acting as a vehicle dealer while under revocation,
31 cancellation or suspension, is a Class A misdemeanor.

32 (n) The offense described in this section, improper display of a vehicle for advertising purposes,
33 is a Class A misdemeanor.

34 **(o) The offense described in this section, employing an uncertified vehicle salesperson, is**
35 **a Class B violation.**

36 **SECTION 16.** ORS 822.700 is amended to read:

37 822.700. (1) Fee for issuance of dismantler certificates:

38 (a) \$450, for an original dismantler certificate covering a single place of business issued under
39 ORS 822.110;

40 (b) \$90, for a supplemental certificate for each additional place of business to be covered by that
41 certificate and operated under the same name; and

42 (c) \$30, for each duplicate dismantler certificate issued under ORS 822.110.

43 (2) Fee for renewal of dismantler certificate under ORS 822.125, \$450.

44 (3) Fee for original issuance of vehicle dealer certificate under ORS 822.020:

45 (a) \$958, for a certificate covering a single place of business;

1 (b) \$230, for each additional place of business to be covered by the certificate and operated un-
 2 der the same name; and

3 (c) \$30, for each corrected vehicle dealer certificate issued under ORS 822.040.

4 (4) Fee for renewal of vehicle dealer certificate under ORS 822.040:

5 (a) \$958, for renewal of a vehicle dealer certificate covering a single place of business; and

6 (b) \$230, for each additional place of business to be covered by the certificate and operated un-
 7 der the same name.

8 (5) Fee for issuance of towing business certificate under ORS 822.205, \$17 for each vehicle used
 9 for towing or recovery purposes.

10 (6) Fee for renewal of towing business certificate under ORS 822.210, \$17 for each vehicle used
 11 for towing or recovery purposes.

12 (7) Fee for issuance of vehicle transporter certificate under ORS 822.310, \$150.

13 (8) Fee for renewal of vehicle transporter certificate under ORS 822.310, \$150.

14 (9) Fee for issuance of driver training instructor certificate under ORS 822.530, \$100.

15 (10) Fee for renewal of driver training certificate under ORS 822.530, \$100.

16 (11) Fee for issuance of commercial driver training school certificate under ORS 822.515, \$200.

17 (12) Fee for renewal of commercial driver training school certificate under ORS 822.515, \$200.

18 (13) Fee for issuance of vehicle appraiser certificate under ORS 819.480, \$75.

19 (14) Fee for renewal of vehicle appraiser certificate under ORS 819.480, \$75.

20 (15) **Fee for initial issuance of a vehicle salesperson certificate under section 7 of this**
 21 **2009 Act, \$75.**

22 (16) **Fee for renewal of a vehicle salesperson certificate under section 10 of this 2009 Act,**
 23 **\$75.**

24 **SECTION 17.** ORS 184.642 is amended to read:

25 184.642. (1) The Department of Transportation Operating Fund is established in the State
 26 Treasury separate and distinct from the General Fund and separate and distinct from the State
 27 Highway Fund. Except as otherwise provided in subsection (3)(e) of this section, moneys in the De-
 28 partment of Transportation Operating Fund are continuously appropriated to the Department of
 29 Transportation to pay expenses of the department that are incurred in the performance of functions
 30 the department is statutorily required or authorized to perform and that may not constitutionally
 31 be paid from revenues described in section 3a, Article IX of the Oregon Constitution.

32 (2) The operating fund shall consist of the following:

33 (a) Taxes paid on motor vehicle fuels or on the use of fuel in a motor vehicle for which a person
 34 is entitled to a refund under a provision described in this paragraph but for which no refund is
 35 claimed, in amounts determined under ORS 184.643. This paragraph applies to refund entitlements
 36 described in ORS 319.280 (1)(a) and (e), 319.320 (1)(a) and 319.831 (1)(b).

37 (b) Fees collected under ORS 822.700 for issuance or renewal of:

38 (A) Dismantler certificates;

39 (B) Vehicle dealer certificates;

40 (C) Driver training certificates;

41 (D) Commercial driver training school certificates; *and*

42 (E) Appraiser certificates[.]; **and**

43 **(F) Vehicle salesperson certificates.**

44 (c) Fees collected under ORS 822.705.

45 (d) Moneys from civil penalties imposed under ORS 822.009.

1 (e) Fees collected under ORS 807.410 for identification cards.

2 (f) Fees collected by the department for issuance of permits to engage in activities described in
3 ORS 374.305 to 374.330 that are not directly connected to the construction, reconstruction, im-
4 provement, repair, maintenance, operation and use of a public highway, road, street or roadside rest
5 area.

6 (g) Interest and other earnings on moneys in the operating fund.

7 (3) Moneys in the Department of Transportation Operating Fund established by subsections (1)
8 and (2) of this section may be spent only as follows:

9 (a) Taxes described in subsection (2)(a) of this section may be used only for payment of expenses
10 of the Department of Transportation that:

11 (A) May not constitutionally be paid from revenues described in section 3a, Article IX of the
12 Oregon Constitution;

13 (B) Are incurred in the performance of functions the department is statutorily required or au-
14 thorized to perform; and

15 (C) Are not payable from moneys described in paragraphs (b) to (e) of this subsection.

16 (b) Fees collected under subsection (2)(b) of this section may be used only to carry out the reg-
17 ulatory functions of the department relating to the businesses that generate the fees.

18 (c) Fees collected under ORS 822.705 may be used only for the purposes described in ORS
19 822.705.

20 (d) Moneys collected from civil penalties imposed under ORS 822.009 may be used only for reg-
21 ulation of vehicle dealers **and vehicle salespersons**.

22 (e) Moneys collected under ORS 807.410 from fees for identification cards shall be used first to
23 pay the expenses of the department for performing the functions of the department relating to
24 identification cards. After paying the expenses related to identification cards, the department shall
25 transfer the remaining moneys collected under ORS 807.410 to the Elderly and Disabled Special
26 Transportation Fund established in ORS 391.800.

27 (f) Moneys from the permits described in subsection (2)(f) of this section may be used for costs
28 of issuing the permits and monitoring the activities that generate the fees.

29 (g) Moneys from interest and other earnings on moneys in the operating fund may be used for
30 any purpose for which other moneys in the fund may be used.

31 **SECTION 18. (1) Section 2 of this 2009 Act and the amendments to ORS 822.050 by section**
32 **3 this 2009 Act apply to convictions on or after the effective date of this 2009 Act.**

33 **(2) Sections 7 and 10 of this 2009 Act apply to convictions on or after January 1, 2011.**

34 **SECTION 19. (1) Sections 5 to 11 of this 2009 Act and the amendments to ORS 184.642,**
35 **802.031, 822.007, 822.009, 822.045 and 822.700 by sections 12 to 17 of this 2009 Act become op-**
36 **erative July 1, 2010.**

37 **(2) Notwithstanding subsection (1) of this section, prior to July 1, 2010, the Department**
38 **of Transportation may adopt rules and take all other actions determined by the department**
39 **to be necessary for implementation of sections 5 to 11 of this 2009 Act and the amendments**
40 **to ORS 184.642, 802.031, 822.007, 822.009, 822.045 and 822.700 by sections 12 to 17 of this 2009**
41 **Act.**

42