

Senate Bill 533

Sponsored by Senator STARR (at the request of Oregon Vehicle Dealer Association) (Pre-session filed.)

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**.

Eliminates delivery of letter of credit as method by which surety may be secured for vehicle dealer certification. Reduces bond amount that dealer must secure for vehicle dealer certification. Reduces maximum amount available under bond that may be used to pay claims by persons other than retail customers of dealer.

A BILL FOR AN ACT

1
2 Relating to vehicle dealer certification; creating new provisions; and amending ORS 822.020, 822.030
3 and 822.045.

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

5 **SECTION 1.** ORS 822.020 is amended to read:

6 822.020. Except as provided in ORS 822.035 (8), the Department of Transportation shall issue a
7 vehicle dealer certificate to any person if the person meets all of the following requirements:

8 (1) The person must complete the application for a dealer certificate described under ORS
9 822.025.

10 (2) The person must deliver to the department a bond [*or letter of credit*] that meets the re-
11 quirements under ORS 822.030.

12 (3) The person must deliver to the department a certificate of insurance that meets the re-
13 quirements established by ORS 822.033.

14 (4) The person must pay the fee required under ORS 822.700 for issuance of a vehicle dealer
15 certificate.

16 (5) The person must certify completion of the education and test requirements of ORS 822.027
17 (1) if the person is a dealer subject to the education and test requirements.

18 **SECTION 2.** ORS 822.030 is amended to read:

19 822.030. (1) A bond [*or letter of credit*] required to qualify for a vehicle dealer certificate under
20 ORS 822.020 or to qualify for renewal of a certificate under ORS 822.040 must comply with all of the
21 following:

22 (a) The bond shall have a corporate surety licensed to do business within this state. [*A letter*
23 *of credit shall be an irrevocable letter of credit issued by an insured institution, as defined in ORS*
24 *706.008.*] The surety [*or institution*] shall notify the Department of Transportation if the bond [*or*
25 *letter of credit*] is canceled for any reason. The surety [*or institution*] shall continue to be liable un-
26 der the bond [*or letter of credit*] until the department receives the notice required by this paragraph,
27 or until the cancellation date specified in the notice, whichever is later.

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

29 (c) Except as otherwise provided in this paragraph, the bond [*or letter of credit*] shall be in the
30 following sum:

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) If the applicant is seeking a certificate to be a dealer exclusively in motorcycles, mopeds,
2 Class I all-terrain vehicles or snowmobiles or any combination of those vehicles, the bond [*or letter*
3 *of credit*] shall be for \$2,000.

4 (B) Except as provided in subparagraph (A) of this paragraph, if the applicant is seeking a cer-
5 tificate to be a vehicle dealer, the bond [*or letter of credit*] shall be for [~~\$40,000~~] **\$20,000** for each year
6 the certificate is valid.

7 (d) The bond [*or letter of credit*] described in this subsection shall be approved as to form by the
8 Attorney General.

9 (e) The bond [*or letter of credit*] must be conditioned that the person issued the certificate shall
10 conduct business as a vehicle dealer without fraud or fraudulent representation and without violat-
11 ing any provisions of the vehicle code relating to vehicle registration, vehicle permits, the transfer
12 or alteration of vehicles or the regulation of vehicle dealers.

13 (f) The bond [*or letter of credit*] must be filed and held in the office of the department.

14 (g) The vehicle dealer shall purchase a bond [*or letter of credit*] under this subsection annually
15 on or before each anniversary of the issuance of the vehicle dealer's certificate.

16 (2) Any person shall have a right of action against a vehicle dealer[,] **and** against the surety on
17 the vehicle dealer's bond [*and against the letter of credit*] in the person's own name if the person
18 suffers any loss or damage by reason of the vehicle dealer's fraud, fraudulent representations or
19 violations of provisions of the vehicle code relating to:

20 (a) Vehicle registration;

21 (b) Vehicle permits;

22 (c) The transfer or alteration of vehicles; or

23 (d) The regulation of vehicle dealers.

24 (3) Notwithstanding subsection (2) of this section, the maximum amount available under a bond
25 described in subsection (1)(c)(B) of this section for the payment of claims by persons other than re-
26 tail customers of the dealer is [~~\$20,000~~] **\$1,000**.

27 (4) If the certificate of a vehicle dealer is not renewed or is voluntarily or involuntarily can-
28 celed, the sureties on the bond [*and the issuer of the letter of credit*] are relieved from liability that
29 accrues after the department cancels the certificate.

30 **SECTION 3.** ORS 822.045 is amended to read:

31 822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the
32 penalties under this section if the vehicle dealer commits any of the following offenses:

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

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

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

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

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

45 (C) The name and address of the seller, the purchaser and the alleged owner or other person

1 from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.

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

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

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

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

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

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

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

25 (h) A person commits the offense of improper display of dealer plates if the person operates over
26 and along the highways of this state any unregistered vehicle owned or controlled by the dealer and
27 any dealer plates issued are not displayed in the manner provided in ORS 803.540 for the display
28 of registration plates.

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

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

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

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

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

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

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

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

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

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

8 (L) A vehicle dealer commits the offense of failure to maintain bond [*or letter of credit*] coverage
9 if the dealer permits a bond [*or letter of credit*] to lapse during the period that the bond [*or letter*
10 *of credit*] is required under ORS 822.020 or 822.040 or if the dealer fails to purchase a bond [*or letter*
11 *of credit*] required by ORS 822.030.

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

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

20 (2) A dealer shall not be considered to have committed the offense described in subsection (1)(j)
21 of this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an
22 inventory financing security interest for which the dealer is the debtor.

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

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

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

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

28 (a) The offense described in this section, failure to obtain a supplemental vehicle dealer certif-
29 icate, is a Class A misdemeanor.

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

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

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

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

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

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

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

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

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

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

4 (L) The offense described in this section, failure to maintain bond [*or letter of credit*] coverage,
5 is a Class A misdemeanor.

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

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

10 **SECTION 4. (1) The amendments to ORS 822.030 by section 2 of this 2011 Act apply to**
11 **bonds acquired on or after the effective date of this 2011 Act.**

12 **(2) The amendments to ORS 822.030 by section 2 of this 2011 Act apply to claims by per-**
13 **sons other than retail customers of a dealer filed on or after the effective date of this 2011**
14 **Act.**

15 **(3) The amendments to ORS 822.020, 822.030 and 822.045 by sections 1, 2 and 3 of this 2011**
16 **Act do not apply to letters of credit acquired before the effective date of this 2011 Act.**

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