

D R A F T

SUMMARY

Reduces amount of continuing education required for vehicle dealers.

Permits vehicle dealer to designate eligible employee to complete continuing education requirements on behalf of vehicle dealer under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to vehicle dealers; creating new provisions; and amending ORS
3 822.020, 822.025, 822.027 and 822.040.

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

5 **SECTION 1.** ORS 822.027 is amended to read:

6 822.027. (1) Except as provided in subsection (2) of this section, the fol-
7 lowing education requirements apply to an applicant for a vehicle dealer
8 certificate under ORS 822.020 or 822.040:

9 (a) An applicant for a vehicle dealer certificate under ORS 822.020 must
10 complete a minimum of eight hours of **courses in an approved precertif-**
11 **ication** education [*programs*] **program** described in subsection (4) of this
12 section and pass a test within one year prior to submitting an application
13 for the certificate; and

14 (b) **Except as provided in section 3 of this 2013 Act**, an applicant for
15 a renewal certificate under ORS 822.040 must, **in each year of a certifi-**
16 **ication period**, complete a minimum of [*five*] **four** hours [*per year in a li-*
17 *icensing period*] of **courses in an** approved continuing education [*programs*]
18 **program** described in subsection (4) of this section **and pass a test** prior
19 to submitting an application for the renewal certificate. **An applicant may**
20 **not repeat a course in an approved continuing education program for**

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 **which the applicant previously obtained credit.**

2 (2) The **precertification** education requirements in subsection (1)(a) of
3 this section do not apply to an applicant for a vehicle dealer certificate un-
4 der ORS 822.020 or 822.040 if, at the time of application, the applicant holds
5 another certificate issued under ORS 822.020 or 822.040.

6 (3) The continuing education requirements of subsection (1)(b) of this
7 section do not apply to an applicant for renewal of a vehicle dealer certif-
8 icate under ORS 822.040 if the applicant is:

9 (a) A dealer having a franchise in this state for nationally advertised and
10 recognized motor vehicles;

11 (b) A dealer having a franchise in this state for new recreational vehicles;

12 (c) A motor vehicle rental company having a national franchise under the
13 ownership of a corporation that operates throughout the United States; or

14 (d) A national auction company that holds a vehicle dealer certificate and
15 a dismantler certificate whose primary activity in this state is the sale or
16 disposition of totaled vehicles.

17 (4) **Precertification and continuing** education programs and the [*test*]
18 **tests** required in subsection (1) of this section may be developed by any
19 motor vehicle industry organization including, but not limited to, the Oregon
20 Independent Auto Dealers Association and shall be submitted to the advisory
21 committee established under ORS 802.370 for approval. **A continuing edu-**
22 **cation program and the corresponding test shall be submitted for ap-**
23 **proval every two years.** The committee shall approve any program or test
24 that pertains to the motor vehicle industry and includes state and federal
25 law in at least the following areas:

26 (a) Motor vehicle advertising;

27 (b) Odometer laws and regulations;

28 (c) Vehicle licensing and registration;

29 (d) Unlawful dealer activities;

30 (e) Environmental rules and regulations;

31 (f) Oregon and industry standard motor vehicle forms;

- 1 (g) Truthful lending practices;
- 2 (h) Motor vehicle financing;
- 3 (i) Service and warranty contracts; and
- 4 (j) Land use regulations governing motor vehicle dealers.

5 (5) Education programs and the [test] tests required in subsection (1) of
6 this section may be provided by accredited educational institutions, private
7 vocational schools, correspondence schools or trade associations if the edu-
8 cation programs and [test] tests have been approved by the advisory com-
9 mittee established under ORS 802.370 as required in subsection (4) of this
10 section.

11 **(6) A vehicle dealer shall maintain records as determined by the**
12 **Department of Transportation by rule to show whether the dealer has**
13 **complied with this section.**

14 **SECTION 2. Sections 3 and 4 of this 2013 Act are added to and made**
15 **a part of ORS chapter 822.**

16 **SECTION 3. (1) An applicant for a renewal certificate under ORS**
17 **822.040 satisfies the continuing education requirements described in**
18 **ORS 822.027 (1)(b) if the applicant designates an employee who meets**
19 **the eligibility requirements described in subsection (2) of this section**
20 **and the designated employee completes the continuing education re-**
21 **quirements described in subsection (3) of this section.**

22 **(2) An employee is eligible to complete the continuing education**
23 **requirements on behalf of a vehicle dealer if the employee:**

24 **(a) Manages the vehicle titling and registration process at the ve-**
25 **hicle dealer's dealership;**

26 **(b) Is not a vehicle dealer;**

27 **(c) Has been continuously employed by the vehicle dealer for at**
28 **least three years before the date the vehicle dealer submits an appli-**
29 **cation for a renewal certificate; and**

30 **(d) Completed a minimum of eight hours of courses in an approved**
31 **precertification education program described in ORS 822.027 (4) and**

1 passed the precertification test. The designated employee must have
2 completed all precertification education instruction in person with an
3 instructor.

4 (3) To complete the continuing education requirements on behalf
5 of a vehicle dealer the designated employee must, in each year of the
6 vehicle dealer's certification period, complete a minimum of four
7 hours of courses in an approved continuing education program de-
8 scribed in ORS 822.027 (4) and pass a test before the vehicle dealer
9 submits an application for a renewal certificate. At least four course
10 hours must be completed in person with an instructor. The remaining
11 eight course hours may be completed through distance learning.

12 (4) A vehicle dealer who designates an employee to complete the
13 vehicle dealer's continuing education requirements under this section
14 must designate an employee for each dealership the vehicle dealer
15 operates in this state.

16 (5) A designated employee may only complete the continuing edu-
17 cation requirements for one vehicle dealer within any three-year cer-
18 tification period.

19 (6) Any time a vehicle dealer designates an employee to complete
20 the continuing education requirements on behalf of the vehicle dealer
21 the dealer shall notify the Department of Transportation in a manner
22 authorized by the department by rule.

23 (7) A vehicle dealer shall maintain and make available to the de-
24 partment documentation that the designated employee meets the el-
25 igibility requirements of subsection (2) of this section and has
26 completed all continuing education required under subsection (3) of
27 this section.

28 (8) The records kept under subsection (7) of this section must be
29 open at all times for inspection by the department. The records may
30 be maintained in any format that allows for inspection and copying
31 by the department as determined by the department by rule.

1 **SECTION 4.** (1) A vehicle dealer continuing education provider shall
2 keep records of each course that the continuing education provider
3 offered as part of an approved education program described in ORS
4 822.027 (4), the length of time of each course, the name of the in-
5 structor who taught each course, test results and other information
6 required by the Department of Transportation. The continuing educa-
7 tion provider shall keep the records for at least three years.

8 (2) The records kept under subsection (1) of this section must be
9 open at all times for inspection by the Department of Transportation
10 and the Department of Justice. The records may be maintained in any
11 format that allows for inspection and copying by the departments as
12 determined by each department by rule.

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

14 822.020. Except as provided in ORS 822.035 (8), the Department of Trans-
15 portation shall issue a vehicle dealer certificate to any person if the person
16 meets all of the following requirements:

17 (1) The person must complete the application for a dealer certificate de-
18 scribed under ORS 822.025.

19 (2) The person must deliver to the department a bond or letter of credit
20 that meets the requirements under ORS 822.030.

21 (3) The person must deliver to the department a certificate of insurance
22 that meets the requirements established by ORS 822.033.

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

25 (5) The person must certify completion of the **precertification** education
26 and test requirements of ORS 822.027 (1)(a) if the person is a dealer subject
27 to the education and test requirements.

28 **SECTION 6.** ORS 822.025 is amended to read:

29 822.025. An application for a vehicle dealer certificate issued by the De-
30 partment of Transportation under ORS 822.020 shall be in a form prescribed
31 by the department and shall contain all of the following:

- 1 (1) The names and residence addresses of the persons applying:
 - 2 (a) If the applicant is a firm or partnership, the name of the firm or
3 partnership with the names and residence addresses of all members thereof.
 - 4 (b) If the applicant is a corporation, the name of the corporation with the
5 names of the principal officers and their residence addresses and the name
6 of the state under whose laws the corporation is organized.
- 7 (2) The name under which the business will be conducted.
- 8 (3) The street address, including city and county in Oregon, where the
9 business will be conducted.
- 10 (4) Whether or not used vehicles are handled.
- 11 (5) A certificate from the applicant showing that the applicant will act
12 as a vehicle dealer and will conduct business at the location given on the
13 application.
- 14 (6) A certificate signed by a person authorized by the local governing
15 body to do so, stating that the location of the business as given in the ap-
16 plication for a certificate complies with any land use ordinances or business
17 regulatory ordinances of the city or county. The provisions of this subsection
18 do not apply to renewal of a vehicle dealer certificate under ORS 822.040
19 unless the location of the business is being changed at the time of renewal.
- 20 (7) Any information required by the department to efficiently administer
21 the registration of vehicles and regulation of dealers or other relevant in-
22 formation required by the department.
- 23 (8) A certificate from the provider of each education program or test
24 showing that the applicant has completed the **precertification** education
25 [*programs*] **program** and passed the test required under ORS 822.027 (1)(a)
26 if the applicant is a dealer subject to the education and test requirements.
- 27 (9) If the applicant will offer new recreational vehicles for sale, a certif-
28 icate from the applicant stating that the applicant will maintain a recre-
29 ational vehicle service facility at the street address provided by the applicant
30 pursuant to subsection (3) of this section.

31 **SECTION 7.** ORS 822.040 is amended to read:

1 822.040. (1) The holder of a current, valid vehicle dealer certificate issued
2 under ORS 822.020 may exercise the following privileges under the certifi-
3 cate:

4 (a) A dealer is authorized, without violating ORS 803.025 or 803.300, to
5 use and operate over and along the highways of this state all vehicles dis-
6 playing the dealer's plates whether registered or not or whether or not a title
7 is issued for the vehicle. This paragraph does not authorize dealers to use
8 or operate vehicles under dealer plates unless the vehicles are actually
9 owned or controlled by the dealer and in actual use by the dealer, members
10 of the dealer's firm, any salesperson thereof or any person authorized by the
11 dealer. Vehicles operated under dealer plates may be used for the same pur-
12 poses as are any other vehicles registered in this state that are registered
13 by payment of the fee under ORS 803.420. This paragraph is subject to the
14 limitations under ORS 822.045.

15 (b) A dealer is entitled to receive dealer plates or devices and replacement
16 or additional dealer plates or devices. As many additional dealer plates as
17 may be desired may be obtained upon the filing of a formal application for
18 additional plates with the Department of Transportation. The plates issued
19 to dealers shall require the payment of fees as provided under ORS 805.250.

20 (c) The person is not subject to the prohibitions and penalties under ORS
21 822.005 as long as the holder's vehicle dealer business is conducted in a lo-
22 cation approved under the certificate.

23 (d) The dealer shall be considered the owner of vehicles manufactured or
24 dealt in by the dealer, before delivery and sale of the vehicles, and of all
25 vehicles in the dealer's possession and operated or driven by the dealer or
26 the dealer's employees.

27 (2) The holder of a vehicle dealer certificate may open additional places
28 of business under the same business name by obtaining a supplemental cer-
29 tificate from the department under this subsection. The following all apply
30 to a supplemental certificate issued under this subsection:

31 (a) The department shall not issue a supplemental certificate under this

1 subsection if the additional place of business opened will be operated under
2 a different business name than that indicated on the current certificate. Any
3 business that a vehicle dealer operates under a separate business name must
4 be operated under a separate certificate and the dealer must apply for and
5 pay the fees for a regular dealer certificate for the business.

6 (b) A supplemental certificate issued under this subsection is subject to
7 the fee for supplemental certificate under ORS 822.700.

8 (3) The holder of a vehicle dealer certificate may move a place of business
9 or change a business name by obtaining a corrected certificate from the de-
10 partment. For purposes of this subsection, “place of business” includes a
11 recreational vehicle service facility as defined in ORS 822.082. The following
12 apply to a corrected certificate issued under this subsection:

13 (a) The department shall prescribe the form for application for a corrected
14 certificate.

15 (b) A person applying for a corrected certificate shall pay the fee for the
16 corrected certificate established in ORS 822.700.

17 (4) The department may establish by rule the requirements a holder of a
18 vehicle dealer certificate must meet to display a vehicle at a location other
19 than the dealer’s place of business for the purpose of advertising without
20 first obtaining a supplemental certificate from the department. In addition
21 to any requirements established by the department by rule, all of the fol-
22 lowing apply:

23 (a) The dealer must have a signed agreement with the owner of the
24 property or the person using the property where the vehicle is to be dis-
25 played stating that the vehicle is for an advertising promotion only and that
26 the processing of any documents or other activities required to purchase a
27 vehicle must be done at the dealer’s place of business.

28 (b) The vehicle on display must be clearly marked with the dealer’s name
29 and contact information and a notice that the vehicle is displayed only for
30 the purpose of advertising and may be purchased only at the dealer’s place
31 of business.

1 (c) Displaying the vehicle must not violate any zoning laws or ordinances.

2 (d) The dealer or the dealer's employees may not remain with the vehicle
3 except for the purpose of moving the vehicle in or out of the display area.

4 (5) A vehicle dealer certificate is valid for a three-year period and may
5 be renewed as provided by the department. The department shall only renew
6 a certificate if the applicant for renewal does all of the following:

7 (a) Pays the required fee for renewal under ORS 822.700.

8 (b) Delivers to the department a bond that meets the requirements under
9 ORS 822.030.

10 (c) Delivers to the department a certificate of insurance that meets the
11 requirements under ORS 822.033.

12 (d) Provides the names of all partners or corporate officers.

13 (e) Certifies completion of the **continuing** education requirements of ORS
14 822.027 (1)(b) if the person is a dealer subject to the education requirements.

15 (f) If the dealer offers new recreational vehicles for sale under the cer-
16 tificate, certifies that the dealer maintains a recreational vehicle service fa-
17 cility as listed in the dealer certificate application described in ORS 822.025.

18 (6) The department may adopt suitable rules for the issuance and renewal
19 of certificates under this section and ORS 822.020.

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