

Enrolled Senate Bill 613

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 822.027 is amended to read:

822.027. (1) Except as provided in [subsection (2)] **subsections (2) and (3)** of this section, the following education requirements apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040:

(a) An applicant for a vehicle dealer certificate under ORS 822.020 must complete a minimum of eight hours of **courses in any approved precertification education [programs] program** described in subsection (4) of this section and pass [a test] **the tests required under paragraph (c) of this subsection** within one year prior to submitting an application for the certificate; [and]

(b) An applicant for a renewal certificate under ORS 822.040 must, **for each year of a certification period**, complete a minimum of [five] **four** hours [per year in a licensing period] of **courses in any** approved continuing education [programs] **program** described in subsection (4) of this section **and pass the tests required under paragraph (c) of this subsection** prior to submitting an application for the renewal certificate. **An applicant may not repeat a course in an approved continuing education program for which the applicant previously obtained credit within the same certification period; and**

(c) **For each course hour required under paragraphs (a) and (b) of this subsection, the provider shall administer a test and the applicant must pass each test with a score of at least 70 percent in order to receive credit for the course hour. Each test must contain at least 10 questions.**

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

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

- (a) A dealer having a franchise in this state for nationally advertised and recognized motor vehicles;
- (b) A dealer having a franchise in this state for new recreational vehicles;
- (c) A motor vehicle rental company having a national franchise under the ownership of a corporation that operates throughout the United States; or

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

(4) **Precertification and continuing** education programs and the *[test]* **tests** required in subsection (1) of this section may be developed by any motor vehicle industry organization including, but not limited to, the Oregon Independent Auto Dealers Association *[and]*. **Each education program** shall be submitted to the advisory committee established under ORS 802.370 for approval **every two years**. The committee shall **vote to approve or deny approval of each program** *[any program or test that pertains to the motor vehicle industry and includes]*. **A program that is approved must cover** state and federal law in at least the following areas:

- (a) Motor vehicle advertising;
- (b) Odometer laws and regulations;
- (c) Vehicle licensing and registration;
- (d) Unlawful dealer activities;
- (e) Environmental rules and regulations;
- (f) Oregon and industry standard motor vehicle forms;
- (g) Truthful lending practices;
- (h) Motor vehicle financing;
- (i) Service and warranty contracts; and
- (j) Land use regulations governing motor vehicle dealers.

(5) **Precertification and continuing** education programs *[and the test]* required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations if the education programs *[and test]* have been approved by the advisory committee established under ORS 802.370 as required in subsection (4) of this section.

(6) The approval of an education program under subsection (4) of this section expires two years from the date of the approval.

SECTION 2. ORS 822.020 is amended to read:

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

- (1) The person must complete the application for a dealer certificate described under ORS 822.025.
- (2) The person must deliver to the department a bond or letter of credit that meets the requirements under ORS 822.030.
- (3) The person must deliver to the department a certificate of insurance that meets the requirements established by ORS 822.033.
- (4) The person must pay the fee required under ORS 822.700 for issuance of a vehicle dealer certificate.
- (5) The person must certify completion of the **precertification** education and test requirements of ORS 822.027 (1)(a) if the person is a dealer subject to the education and test requirements.

SECTION 3. ORS 822.025 is amended to read:

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

- (1) The names and residence addresses of the persons applying, **as follows**:
 - (a) If the applicant is a firm or partnership, the name of the firm or partnership with the names and residence addresses of all members thereof.
 - (b) If the applicant is a corporation, the name of the corporation with the names of the principal officers and their residence addresses and the name of the state under whose laws the corporation is organized.
- (2) The name under which the business will be conducted.
- (3) The street address, including city and county in Oregon, where the business will be conducted.

(4) Whether or not used vehicles are handled.

(5) A certificate from the applicant showing that the applicant will act as a vehicle dealer and will conduct business at the location given on the application.

(6) A certificate signed by a person authorized by the local governing body to do so, stating that the location of the business as given in the application for a certificate complies with any land use ordinances or business regulatory ordinances of the city or county. The provisions of this subsection do not apply to renewal of a vehicle dealer certificate under ORS 822.040 unless the location of the business is being changed at the time of renewal.

(7) Any information required by the department to efficiently administer the registration of vehicles and regulation of dealers or other relevant information required by the department.

(8) **If the applicant is a dealer subject to the education and test requirements under ORS 822.027 (1)(a)**, a certificate from the provider of each **precertification** education program [*or test showing*] **listing the courses** that the applicant has completed **and the tests that the applicant has passed in the precertification** education [*programs and passed the test required under ORS 822.027 (1) if the applicant is a dealer subject to the education and test requirements*] **program**.

(9) If the applicant will offer new recreational vehicles for sale, a certificate from the applicant stating that the applicant will maintain a recreational vehicle service facility at the street address provided by the applicant pursuant to subsection (3) of this section.

SECTION 4. ORS 822.040 is amended to read:

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

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

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

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

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

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

(a) The department shall not issue a supplemental certificate under this subsection if the additional place of business opened will be operated under a different business name than that indicated on the current certificate. Any business that a vehicle dealer operates under a separate business name must be operated under a separate certificate and the dealer must apply for and pay the fees for a regular dealer certificate for the business.

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

(3) The holder of a vehicle dealer certificate may move a place of business or change a business name by obtaining a corrected certificate from the department. For purposes of this subsection, "place of business" includes a recreational vehicle service facility as defined in ORS 822.082. The following apply to a corrected certificate issued under this subsection:

(a) The department shall prescribe the form for application for a corrected certificate.
(b) A person applying for a corrected certificate shall pay the fee for the corrected certificate established in ORS 822.700.

(4) The department may establish by rule the requirements a holder of a vehicle dealer certificate must meet to display a vehicle at a location other than the dealer's place of business for the purpose of advertising without first obtaining a supplemental certificate from the department. In addition to any requirements established by the department by rule, all of the following apply:

(a) The dealer must have a signed agreement with the owner of the property or the person using the property where the vehicle is to be displayed stating that the vehicle is for an advertising promotion only and that the processing of any documents or other activities required to purchase a vehicle must be done at the dealer's place of business.

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

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

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

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

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

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

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

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

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

(f) If the dealer offers new recreational vehicles for sale under the certificate, certifies that the dealer maintains a recreational vehicle service facility as listed in the dealer certificate application described in ORS 822.025.

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

SECTION 5. (1) The amendments to ORS 822.020, 822.025, 822.027 and 822.040 by sections 1 to 4 of this 2013 Act apply to applications for issuance or renewal of a vehicle dealer certificate submitted on or after the effective date of this 2013 Act. However, a vehicle dealer certified as of the day immediately preceding the effective date of this 2013 Act shall continue to be governed by ORS 822.020, 822.025, 822.027 and 822.040 as in effect immediately before the effective date of this 2013 Act until the expiration of the vehicle dealer certificate.

(2) Precertification and continuing education programs described in ORS 822.027 that were approved before the effective date of this 2013 Act continue to be deemed approved until December 31, 2015.

Passed by Senate April 22, 2013

Repassed by Senate June 18, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 13, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State