

Senate Bill 613

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

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**.

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 822.020, 822.025, 822.027 and
3 822.040.

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 following education re-
7 quirements apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040:

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

12 (b) **Except as provided in section 3 of this 2013 Act**, an applicant for a renewal certificate
13 under ORS 822.040 must, **in each year of a certification period**, complete a minimum of [*five*] **four**
14 hours [*per year in a licensing period*] of **courses in an approved continuing education [programs]**
15 **program** described in subsection (4) of this section **and pass a test** prior to submitting an appli-
16 cation for the renewal certificate. **An applicant may not repeat a course in an approved con-**
17 **tinuing education program for which the applicant previously obtained credit.**

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

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

23 (a) A dealer having a franchise in this state for nationally advertised and recognized motor ve-
24 hicles;

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

26 (c) A motor vehicle rental company having a national franchise under the ownership of a cor-
27 poration that operates throughout the United States; or

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

30 (4) **Precertification and continuing** education programs and the [*test*] **tests** required in sub-

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 section (1) of this section may be developed by any motor vehicle industry organization including,
 2 but not limited to, the Oregon Independent Auto Dealers Association and shall be submitted to the
 3 advisory committee established under ORS 802.370 for approval. **A continuing education program
 4 and the corresponding test shall be submitted for approval every two years.** The committee
 5 shall approve any program or test that pertains to the motor vehicle industry and includes state and
 6 federal law in at least the following areas:

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

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

21 **(6) A vehicle dealer shall maintain records as determined by the Department of Trans-**
 22 **portation by rule to show whether the dealer has complied with this section.**

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

25 **SECTION 3. (1) An applicant for a renewal certificate under ORS 822.040 satisfies the**
 26 **continuing education requirements described in ORS 822.027 (1)(b) if the applicant designates**
 27 **an employee who meets the eligibility requirements described in subsection (2) of this section**
 28 **and the designated employee completes the continuing education requirements described in**
 29 **subsection (3) of this section.**

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

- 32 **(a) Manages the vehicle titling and registration process at the vehicle dealer's dealership;**
- 33 **(b) Is not a vehicle dealer;**
- 34 **(c) Has been continuously employed by the vehicle dealer for at least three years before**
 35 **the date the vehicle dealer submits an application for a renewal certificate; and**

36 **(d) Completed a minimum of eight hours of courses in an approved precertification edu-**
 37 **cation program described in ORS 822.027 (4) and passed the precertification test. The desig-**
 38 **ated employee must have completed all precertification education instruction in person with**
 39 **an instructor.**

40 **(3) To complete the continuing education requirements on behalf of a vehicle dealer the**
 41 **designated employee must, in each year of the vehicle dealer's certification period, complete**
 42 **a minimum of four hours of courses in an approved continuing education program described**
 43 **in ORS 822.027 (4) and pass a test before the vehicle dealer submits an application for a re-**
 44 **newal certificate. At least four course hours must be completed in person with an instructor.**
 45 **The remaining eight course hours may be completed through distance learning.**

1 (4) A vehicle dealer who designates an employee to complete the vehicle dealer's contin-
2 uing education requirements under this section must designate an employee for each deal-
3 ership the vehicle dealer operates in this state.

4 (5) A designated employee may only complete the continuing education requirements for
5 one vehicle dealer within any three-year certification period.

6 (6) Any time a vehicle dealer designates an employee to complete the continuing educa-
7 tion requirements on behalf of the vehicle dealer the dealer shall notify the Department of
8 Transportation in a manner authorized by the department by rule.

9 (7) A vehicle dealer shall maintain and make available to the department documentation
10 that the designated employee meets the eligibility requirements of subsection (2) of this
11 section and has completed all continuing education required under subsection (3) of this
12 section.

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

16 **SECTION 4.** (1) A vehicle dealer continuing education provider shall keep records of each
17 course that the continuing education provider offered as part of an approved education pro-
18 gram described in ORS 822.027 (4), the length of time of each course, the name of the in-
19 structor who taught each course, test results and other information required by the
20 Department of Transportation. The continuing education provider shall keep the records for
21 at least three years.

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

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

27 822.020. Except as provided in ORS 822.035 (8), the Department of Transportation shall issue a
28 vehicle dealer certificate to any person if the person meets all of the following requirements:

29 (1) The person must complete the application for a dealer certificate described under ORS
30 822.025.

31 (2) The person must deliver to the department a bond or letter of credit that meets the re-
32 quirements under ORS 822.030.

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

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

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

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

40 822.025. An application for a vehicle dealer certificate issued by the Department of Transporta-
41 tion under ORS 822.020 shall be in a form prescribed by the department and shall contain all of the
42 following:

43 (1) The names and residence addresses of the persons applying:

44 (a) If the applicant is a firm or partnership, the name of the firm or partnership with the names
45 and residence addresses of all members thereof.

1 (b) If the applicant is a corporation, the name of the corporation with the names of the principal
 2 officers and their residence addresses and the name of the state under whose laws the corporation
 3 is organized.

4 (2) The name under which the business will be conducted.

5 (3) The street address, including city and county in Oregon, where the business will be con-
 6 ducted.

7 (4) Whether or not used vehicles are handled.

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

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

15 (7) Any information required by the department to efficiently administer the registration of ve-
 16 hicles and regulation of dealers or other relevant information required by the department.

17 (8) A certificate from the provider of each education program or test showing that the applicant
 18 has completed the **precertification** education [*programs*] **program** and passed the test required
 19 under ORS 822.027 (1)(a) if the applicant is a dealer subject to the education and test requirements.

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

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

24 822.040. (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020
 25 may exercise the following privileges under the certificate:

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) The vehicle on display must be clearly marked with the dealer's name and contact informa-
24 tion and a notice that the vehicle is displayed only for the purpose of advertising and may be pur-
25 chased only at the dealer's place of business.

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

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

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

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

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

34 (c) Delivers to the department a certificate of insurance that meets the requirements under ORS
35 822.033.

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

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

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

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