

REVENUE: No revenue impact

FISCAL: No fiscal impact

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| Action: | Do Pass |
| Vote: | 8 - 0 - 2 |
| Yeas: | Bentz, Cameron, Doherty, Lively, McKeown, Nathanson, Parrish, Read |
| Nays: | 0 |
| Exc.: | Davis, Gorsek |
| Prepared By: | Patrick Brennan, Administrator |
| Meeting Dates: | 2/19 |

WHAT THE MEASURE DOES: Specifies when a vehicle dealer has received certificate of title or other primary ownership document for purpose of the offense of failure to provide a clear title. Narrows the scope of the exception to the offense of failure to provide a clear title. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Technical change in response to Court of Appeals decision

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 822.045(1)(j)(B) was enacted in 2001 to incentivize automobile dealers to transfer vehicle titles in a timely manner during dealer-to-dealer transaction. The statute was created in response to the common “float agreement” practice where a dealer acquiring a vehicle from another dealer typically does not pay for the vehicle when it is transferred; instead, the transferring dealer holds the physical title to the vehicle until payment is secured. The statute requires a dealer to pay the interest of the transferring dealer within 15 days of receipt of the clear title. However, the language in the statute has been considered ambiguous with regard to whether it applies to a *dealer* providing clear title, or whether it applies only to a *seller* doing same – the term “seller” not being defined in the statute.

Senate Bill 602 (2003) sought to make a technical fix to the 15-day payment rule. The exception was intended only to eliminate the application of the time period for occasions where there is a flooring agreement between a dealer and a vehicle manufacturer or a financial institution and that agreement did not require the dealer to pay the obligation to the transferring entity within 15 days. The statutory language of the 2003 measure, however, had the unintended consequence of including all dealer-to-dealer transactions. A 2011 Oregon Court of Appeals opinion found that the exception applies to the “float agreements,” which reflects the type of dealer-to-dealer transaction described above. The result of the opinion is that the transferring dealer is not protected by the 15-day payment requirement and has no access to the receiving dealer’s bond, and thus no incentive to transfer the title in a timely manner.

Senate Bill 1557 narrows the language in ORS 822.045(1)(j)(B) to clarify that the 15-day requirement applies to dealer-to-dealer transactions.