

Senate Bill 1557

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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**.

Specifies when vehicle dealer has received certificate of title or other primary ownership document for purpose of offense of failure to provide clear title.

Narrows scope of exception to offense of failure to provide clear title.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to offense of failure to provide clear title; creating new provisions; amending ORS 822.045;
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 822.045 is amended to read:

6 822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the
7 penalties under this section if the vehicle dealer commits any of the following offenses:

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

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

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

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

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

20 (C) The name and address of the seller, the purchaser and the alleged owner or other person
21 from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.

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

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

27 (F) A duly assigned certificate of title or other primary ownership record or a bill of sale from
28 the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer
29 disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate,

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 or if the primary ownership record is in a form other than a document, a dealer shall keep records
2 in accordance with rules adopted by the Department of Transportation for the purpose of complying
3 with this subparagraph.

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

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

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

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

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

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

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

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

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

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

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

32 (B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the pur-
33 chasing dealer fails to satisfy the interest of the *[selling dealer.]* **dealer from which the purchasing**
34 **dealer received the certificate of title or other primary ownership document. For purposes**
35 **of this subparagraph, a purchasing dealer receives a certificate of title or other primary**
36 **ownership document from a dealer on the date:**

37 (i) **The purchasing dealer or the Department of Transportation takes physical possession**
38 **of the certificate or document; or**

39 (ii) **A written notice is mailed by certified or registered mail, return receipt requested,**
40 **to the purchasing dealer from the dealer, stating that the certificate or document is available**
41 **to be picked up at a place and time prearranged by both parties. The written notice must**
42 **be mailed to a business address of the purchasing dealer that is on file with the department.**
43 **Service by mail under this sub-subparagraph is effective on the date of mailing.**

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

1 of any interest in a vehicle or camper by the dealer, the dealer has failed to:

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

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

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

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

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

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

24 (3) A dealer [*shall not be*] **is not** considered to have committed the offense described in sub-
25 section (1)(k) of this section if the dealer demonstrates that:

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

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

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

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

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

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

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

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

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

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

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

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

1 misdemeanor.

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

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

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

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

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

11 **SECTION 2. The amendments to ORS 822.045 by section 1 of this 2014 Act apply to pur-**
12 **chases or transfers of vehicles occurring on or after the effective date of this 2014 Act.**

13 **SECTION 3. This 2014 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect**
15 **on its passage.**

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