



DEPARTMENT OF JUSTICE
CIVIL ENFORCEMENT DIVISION

MEMORANDUM

DATE: May 18, 2015

TO: Honorable Lee Beyer, Chair
Senate Committee on Business and Transportation

FROM: Janet Borth, Assistant Attorney General

SUBJECT: HB 2282A, Section 3 (Dealer Fees)

BACKGROUND ON DEALER TITLE AND REGISTRATION PROCESSING FEES

- Prior to 2006, consumers who purchased vehicles with cash could choose to either ask the dealer to complete and file the title paperwork with the Department of Transportation's Driver and Motor Vehicle Services Division (DMV) or obtain the title from the dealer and complete and file the paperwork themselves.
- ORS 802.033 (renumbered ORS 822.043) was amended in 2005 (SB 997) to allow dealers to decide whether the dealer or consumer would prepare and file the paperwork. Dealers were given the discretion to charge a fee to consumers for the preparation and filing of the paperwork with DMV. Consumers were given the discretion to choose whether the paperwork would be prepared and filed through an electronic vehicle registration program (EVR) called an "integrator." Dealers were permitted to charge a premium for the EVR service. The fees a dealer was permitted to charge were capped at \$50 for a paper submission and \$75 for using EVR. As of January 1, 2011, those caps were raised to \$75 for a paper submission and \$100 for using EVR.
- Under Oregon law, dealers can act as an agent for DMV to prepare and process title and registration documents and collect DMV fees on behalf of a consumer. The Title and Registration Document Preparation Service Fee (Doc Prep Fee) is limited to cover functions a dealer can perform that would otherwise be a DMV function. The Doc Prep Fee does not include other costs of doing business; those costs need to be included in the offering price, the same as with any other consumer good.
- Under Oregon Department of Justice (DOJ) rules, when a dealer advertises a price for a vehicle, that price must be the full cash price the dealer will accept from a purchaser, excluding only taxes, license, registration costs, DEQ fees and a Doc Prep Fee.

HOW HB 2282A CHANGES EXISTING LAW

- Under Section 3, dealers would be permitted to charge consumers for costs of doing business that are not related to DMV functions and allows dealers to recover other business costs which would normally be included in the cost of the vehicle rather than imposed as a fee. They would be permitted to charge consumers for verifying and clearing a title; perfecting, releasing or satisfying a lien or security interest; complying with federal security requirements; and any other services performed by the dealer in order to comply with state or federal law relating to the sale of a vehicle. Many of these are statutory requirements and do not involve the direct performance of a service to a customer such as providing a license plate.
- This bill authorizes private entities to impose a levy. A levy becomes a tax if it raises funds for what would normally be a general public purpose. There is no regulatory agency involved in administering the fees. There is no mechanism for auditing the amount of the fee or adjusting the fee based on the costs of the services provided. As written, this bill would allow dealers to impose a fee in excess of their actual administrative costs.
- It is highly unusual for the legislature to statutorily mandate that a business charge its customers a fee in order for the company to recoup the normal operating expenses associated with legal compliance with state and federal law.

DOJ CONTACT

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