

Senate Bill 666

Sponsored by Senator OLSEN

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**.

Provides that, for purposes of possessory liens, "lien debtor" includes registered owner of motor vehicle and person with lawful possession of motor vehicle.

Requires lien claimant to provide Department of Transportation with certain information regarding appraisal of motor vehicle if vehicle is offered for sale.

Expands notification requirement for lien claimants who take possession of vehicles under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to possessory liens on motor vehicles; amending ORS 87.142, 811.620, 819.160 and 822.093.

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

4 **SECTION 1.** ORS 87.142 is amended to read:

5 87.142. As used in ORS 87.142 to 87.490 and 87.910, unless the context otherwise requires:

6 (1) "Animal" means any mammal, bird, fish, reptile, amphibian or insect.

7 (2) "Chattel" includes movable objects that are capable of being owned, but does not include
8 personal rights not reduced to possession but recoverable by an action at law or suit in equity,
9 money, evidence of debt and negotiable instruments.

10 (3) "Electric cooperative" means a cooperative corporation organized under ORS chapter 62 the
11 principal business of which is the construction, maintenance and operation of an electric trans-
12 mission and distribution system for the benefit of the members of that cooperative corporation and
13 which has no other principal business or purpose.

14 (4) "Electric utility" means a corporation engaged in distributing electricity, directly or indi-
15 rectly, to or for the public and regulated by the Public Utility Commission under ORS chapter 757.

16 (5) "Excavation" means a shaft, tunnel, incline, adit, drift or other excavation designed for the
17 use, working or draining of a mine.

18 (6) "Fair market value" means, with respect to a chattel sold at a foreclosure sale under this
19 chapter, the price of chattels of the same kind and condition prevailing in the county of sale at the
20 time of sale.

21 (7) "Fungible chattels" means chattels of which any unit is the equivalent of any other unit.

22 (8) "Improvement" means a road, tramway, trail, flume, ditch, pipeline, building, structure,
23 superstructure or boardinghouse used for or in connection with the working or development of a
24 mine.

25 (9) "Irrigation" includes the use of canals, ditches, pipes, pumps, spraying apparatus and other
26 mechanical devices to water land artificially.

27 **(10) "Lien debtor" includes:**

28 **(a) A registered owner of a vehicle, as shown in the records of the Department of**
29 **Transportation, but not including an owner who has filed a notice of transfer of interest in**

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 **the vehicle with the department under ORS 803.112.**

2 **(b) A person who is in lawful possession of a motor vehicle.**

3 [(10)] (11) "Mine" means a mine, lode, mining claim or deposit that contains or may contain coal,
4 metal or mineral of any kind.

5 [(11)] (12) "Mortgagee" means a person who has a valid subsisting mortgage of record or trust
6 deed of record securing a loan upon any real property to be charged with a lien under ORS 87.352
7 to 87.362.

8 [(12)] (13) "Nursery stock" means fruit trees, fruit-tree stock, nut trees, grapevines, fruit bushes,
9 rose bushes, rose stock, forest and ornamental trees, and shrubs both deciduous and evergreen,
10 florists' stock and cuttings, scions and seedlings of fruit or ornamental trees and shrubs, and all
11 other fruit-bearing plants and parts thereof and plant products for propagation or planting.

12 [(13)] (14) "Owner" includes:

13 (a) A person who has title to a chattel or real property;

14 (b) A person who is in possession of a chattel or real property under an agreement for the
15 purchase thereof, whether the title thereto is in the person or the vendor of the person; or

16 (c) A person who is in lawful possession of a chattel or real property.

17 [(14)] (15) "Person" includes individuals, corporations, associations, firms, partnerships and joint
18 stock companies.

19 [(15)] (16) "Security interest" means an interest in a chattel reserved or created by an agree-
20 ment that secures payment or performance of an obligation as more particularly defined by ORS
21 71.2010 (2)(ii).

22 [(16)] (17) "Timbers" means sawlogs, spars, piles, felled logs and other wood growth that has
23 been cut or separated from land.

24 [(17)] (18) "Wood products" includes lumber, slabwood, plywood and other wood products
25 produced from timbers. The term does not include paper or products made from paper.

26 **SECTION 2.** ORS 822.093 is amended to read:

27 822.093. (1) Notwithstanding ORS 822.015 (1)(k) or (L), a lien claimant who sells or offers for sale
28 vehicles being sold to foreclose possessory liens, or sells or offers for sale vehicles acquired through
29 possessory liens, shall keep records sufficient to establish that all vehicles being sold or offered for
30 sale were acquired by the lien claimant as the result of a possessory lien. Records kept in accord-
31 ance with this subsection must be made available to the Department of Transportation on request.

32 (2) The department may adopt such rules as are necessary to carry out the provisions of this
33 section, including but not limited to rules that:

34 (a) Specify the form in which the records must be kept, how the records must be maintained and
35 the period for which they must be retained.

36 (b) Specify how the records will be provided to the department if requested.

37 (c) Specify how lien claimants will notify the department when vehicles are sold to foreclose
38 possessory liens and when vehicles acquired through possessory liens are sold.

39 **(d) Specify the information that the lien claimant must provide to the department, in-
40 cluding but not limited to the value of the vehicle sold and the name and certificate number
41 of the vehicle appraiser who determined the value of the vehicle.**

42 (3) Rules adopted under this section shall be developed in consultation with representatives of
43 those lien claimants who may be affected by this section, including but not limited to towing busi-
44 ness operators.

45 (4) The department may impose a civil penalty, in an amount not to exceed \$1,000 for each vi-

1 olation, against any person who violates this section or any rules adopted by the department under
2 this section. Civil penalties shall be imposed as provided in ORS 183.745.

3 **SECTION 3.** ORS 811.620 is amended to read:

4 811.620. If a vehicle is illegally parked in violation of ORS 811.615, the vehicle may be removed
5 and, if notice required under subsection (3) of this section is given, is subject to costs for the re-
6 moval and storage of the vehicle as provided under the following:

7 (1) The owner of private property may have the vehicle removed from the property in the man-
8 ner provided for removal of vehicles under ORS 98.812.

9 (2) Subject to subsection (3) of this section, any state agency or political subdivision of this state
10 may provide for the removal and storage of the vehicle and the vehicle shall be subject to the fol-
11 lowing:

12 (a) The state agency or political subdivision may require payment of reasonable costs for re-
13 moval and storage of the vehicle before the vehicle is released.

14 (b) If the vehicle is not claimed and any fees required under this subsection are not paid within
15 30 days of the removal, a lien described under ORS 98.812 attaches to the vehicle and its contents
16 for the reasonable costs for removal and storage of the vehicle and contents.

17 (3) If a vehicle is removed under subsection (2) of this section, the tower removing the vehicle
18 shall:

19 (a) Notify the local law enforcement agency of the location of the vehicle within one hour after
20 the vehicle is placed in storage; and

21 (b) Unless the vehicle is claimed, give notice, within 10 days after the vehicle is placed in
22 storage, to the vehicle owner [or] **and** any other person with an interest in the vehicle, as indicated
23 by the title records. If notice under this paragraph is given by mail, it must be mailed within the
24 10-day period, but need not be received within that period.

25 **SECTION 4.** ORS 819.160 is amended to read:

26 819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the ve-
27 hicle and its contents if the person, at the request of an authority described under ORS 819.140, tows
28 any of the following vehicles:

29 (a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a cer-
30 tificate issued under ORS 819.480.

31 (b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle
32 appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480.

33 (c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

34 (2) A lien established under this section shall be on the vehicle and its contents for the just and
35 reasonable charges for the towing service performed and any storage provided. However, if the
36 person that tows the vehicle fails to comply with the notice requirements of subsection (3) of this
37 section, the amount of any lien claimed under this section is limited to an amount equal to the just
38 and reasonable charges for the towing service performed and storage provided for a period not ex-
39 ceeding 20 days from the date the vehicle and its contents were placed in storage. The lien is sub-
40 ject to the provisions for liens under ORS 98.812. The person holding the lien may retain possession
41 of the vehicle and contents until the charges on which the lien is based are paid. A lien described
42 under this section does not attach:

43 (a) To the contents of any vehicle taken from public property until 15 days after taking the ve-
44 hicle into custody.

45 (b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or

1 811.570.

2 (3) A person that tows any vehicle at the request of an authority under ORS 819.110 or 819.120
3 shall transmit by first class mail with a certificate of mailing, within 20 days after the vehicle and
4 its contents are placed in storage, written notice, approved by the authority, containing information
5 on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided
6 to the owner, a person entitled to possession [*or*] **and** any person with an interest recorded on the
7 title to the vehicle. This subsection does not apply to a person that tows an abandoned vehicle that
8 is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480.

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