

## OR SB 797

### Issue:

ORS 822.060 specifies some of the requirements for when a certified vehicle dealer takes a vehicle on consignment. These statutory requirements have been essentially the same for over 25 years, and it has been common practice and belief they were intended for retail consumer consignment transactions only. In 2018 that changed, and wholesale motor vehicle auctions, who do not deal in retail consumer consignments, received notice they must also comply with these requirements.

While wholesale auctions do generally meet these consignment requirements for their wholesale customers, they do so by way of consignment agreements with each of their customers to address their customer's unique volume and business needs, rather than individual ink-signed forms and agreements attached to each vehicle transaction, as is now being required. Based on the customer's preference, wholesale auctions might receive directions for the sale of vehicles via email, fax, or other electronic means, and that list could range anywhere from 1 to 100 vehicles, or more, to set for sale that week. To require wholesale auction customers with these types of volumes to complete individual forms for each vehicle would potentially shut down wholesale auction businesses in Oregon, as it would be easier for the commercial customers to transport cars to surrounding states.

In addition to the protections afforded in our consignment agreements, all National Auto Auction Association (NAAA) member auctions guarantee that the titles of vehicles sold through auction are free and clear of any liens or encumbrances. Due to this guarantee, all consignors receive payment from the auction upon presentation of title, regardless of whether the buyer has already paid or not. As such, wholesale auction customers already have these protections in place and do not need duplicative paper requirements on a vehicle by vehicle basis.

### Solution:

SB 797 maintains the requirements of ORS 822.060 for consumer consignments while allowing commercial consignments to perform as previously operated.

### Support:

National Auto Auction Association (NAAA) and its member auctions:

ADESA Northwest 90485 Auction Way Eugene, Oregon 97402	Crosspoint NW LLC 6803 SE Johnson Creek Blvd. Portland, OR 97206
--	--

ADESA Portland 23585 NE Sandy Blvd. Portland, OR 97238	Manheim Portland 3000 North Hayden Island Dr. Portland, OR 97217
--	--

Insurance Auto Auctions (IAA):

Eugene 1000 Bethel Dr. Eugene, OR 97402	Portland 4415 NE 158 <sup>th</sup> Portland, OR 97230	Portland West 10498 Vancouver Way Portland, OR 97217
---	---	--

Copart Auto Auctions:

Eugene 29815 Enid Rd. East Eugene, OR 97402	Portland North 6900 NE Cornfoot Dr. Portland, OR 97218	Portland South 2885 National Way Woodland, OR 97071
---	--	---



#### **Executive Officers**

**Warren Clauss**  
*President*  
Akron, NY

**Chad Bailey**  
*President-Elect*  
Akron, OH

**Laura Taylor**  
*Vice President*  
Moncks Corner, SC

**Mike Browning**  
*Executive Vice President*  
San Antonio, TX

**Warren Byrd**  
*Treasurer*  
Carmel, IN

**Charlotte Pyle**  
*Secretary*  
St. Albans, WV

**Jerry Hinton**  
*Chairman of the Board*  
Portland, OR

**Warren Young, Sr.**  
*President-Emeritus*

**Frank Hackett**  
*Chief Executive Officer*  
Frederick, MD

#### **Board of Directors**

**Chris Angelicchio**  
New Stanton, PA

**Jason Cotton**  
Dyer, IN

**Kristie Letizia**  
Milwaukee, WI

**Mark Melton**  
Eugene, OR

**Jeff Modjeski**  
Slidell, LA

**Charles Nichols**  
Bel Air, MD

**Michele Noblitt**  
Denver, CO

**Joe Pyle**  
Shinnston, WV

**Doug Rodriguez**  
Tallahassee, FL

**Russ Smith**  
Nampa, ID

**Rob Thompson**  
New York Mills, MN

**Ted Swift**  
Corry, PA

Now in its 71st year, the National Auto Auction Association is a private, nonprofit trade association representing a membership of 342 wholesale auto auctions in 47 states, Canada, Puerto Rico, England, Australia and Japan, as well as 134 associate members from a wide range of industry related fields. In 2017, NAAA member auctions conducted weekly sales of all types of motor vehicles totaling 10 million units worth \$105.6 billion.

#### **Our Membership:**

The world of automotive remarketing is an elaborate network of businesses and individuals who work together to facilitate the exchange of used vehicles and product information. NAAA members play a significant role in this industry that revolves around wholesale auto auctions.

Our membership's auctions are a marketplace exclusively for licensed dealers and sellers that are not open to the general public.

New and used car dealers, manufacturers, fleet operators, rental car and other companies, insurance agencies and financial institutions all buy and sell at NAAA member auctions.

All NAAA auctions must have an established place of business. Although they may vary in size, the average member auction operates an 8-lane facility on 78 acres, employs 137 people with a payroll of \$4.5 million, and contributes \$14,526 annually to charities in their communities.

In addition to sales, the auctions offer reconditioning, special dealer services, and title and office processing. Many even provide a restaurant or dining area for their customers.

Our associate members hail from a wide range of industry-related fields, such as leasing companies, financial institutions, insurance agencies, accounting firms, product manufacturers, trade publications, equipment suppliers and state associations.

#### **Our Mission:**

We serve as a unified voice to protect and promote the interests of our members and the wholesale auto auction industry. We work to enrich our membership's commercial viability by enhancing customer service, improving leadership skills, establishing industry standards, ensuring business growth and influencing public policy.

NAAA provides members with a variety of services, including education and instructional programs, safety awareness and training to reduce risk and prevent workplace accidents, leadership development, advocacy at the national level with a political action committee, publications, conferences, networking events, standards and policies for best practices.

# Senate Bill 797

Sponsored by Senator MONNES ANDERSON

## 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 exception to offense of illegal consignment practices.  
Declares emergency, effective on passage.

### A BILL FOR AN ACT

1  
2 Relating to the offense of illegal consignment practices; amending ORS 822.060; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 822.060 is amended to read:

6 **822.060. (1) Except as provided in subsection (2) of this section, a person who holds a vehicle**  
7 **dealer certificate issued or renewed under ORS 822.020 or 822.040 commits the offense of illegal**  
8 **consignment practices if the person does any of the following:**

9 (a) Takes a vehicle on consignment from a person who does not hold a vehicle dealer certificate  
10 issued or renewed under ORS 822.020 or 822.040, or who is not licensed as a vehicle dealer in an-  
11 other jurisdiction, and who does not have proof that the consignor is the registered owner, a secu-  
12 rity interest holder or lessor of the vehicle.

13 (b) Takes a vehicle on consignment from a security interest holder without the security interest  
14 holder first completing a repossession action prior to consigning the vehicle and providing the  
15 dealer with proper documentary proof of the repossession action.

16 (c) Takes a vehicle on consignment and does not have the terms of the consignment agreement  
17 in writing and provide a copy of the agreement to the consignor. The agreement shall include a  
18 provision stating that if the terms of the agreement are not met, the consignor may file a complaint  
19 in writing with the Department of Transportation, Salem, Oregon.

20 (d) Sells a vehicle that the dealer has on consignment and does not pay the consignor within  
21 10 days of the sale.

22 (e) Sells a vehicle that the dealer has on consignment and does not either provide the purchaser  
23 with a certificate of title to the vehicle or with other primary ownership records in the form of  
24 documents or apply to the department in the purchaser's name for title to the vehicle within 30 days  
25 of the sale in a manner provided by the department by rule.

26 (f) Does not allow the department or any duly authorized representative to inspect and audit  
27 any records of any separate accounts into which the dealer deposits any funds received or handled  
28 by the dealer or in the course of business as a dealer from consignment sale of vehicles at such  
29 times as the department may direct.

30 (g) Takes any part of any money paid to the dealer in connection with any consignment trans-  
31 action as part or all of the dealer's commission or fee until the transaction has been completed or

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 terminated.

2 (h) Does not make arrangement for the disposition of money from a consignment transaction  
3 with the seller at the time of establishing a consignment agreement.

4 (i) Sells a vehicle that the dealer has taken on consignment without first giving the purchaser  
5 the following disclosure in writing:

6 \_\_\_\_\_  
7

8 DISCLOSURE REGARDING  
9 CONSIGNMENT SALE

10  
11 \_\_\_\_\_ (Name of Dealer) is selling the following described vehicle:  
12 \_\_\_\_\_ (Year) \_\_\_\_\_ (Make) \_\_\_\_\_ (Model) \_\_\_\_\_ (Vehicle Identification Num-  
13 ber) on consignment.

14  
15 [ ] There is a security interest in this vehicle.

16 [ ] There is not a security interest in this vehicle.

17

18 YOU SHOULD TAKE ACTION TO ENSURE THAT ANY SECURITY INTERESTS ARE RE-  
19 LEASED AND THAT THE TITLE TO THE VEHICLE IS TRANSFERRED TO YOU. OTHERWISE,  
20 YOU MAY TAKE TITLE SUBJECT TO ANY UNSATISFIED SECURITY INTERESTS.

21 \_\_\_\_\_  
22

23 (2) The offense described in this section does not apply if the person who holds a vehicle  
24 dealer certificate issued or renewed under ORS 822.020 or 822.040 and takes a vehicle on  
25 consignment from an entity other than a retail customer operates a:

26 (a) Wholesale vehicle auction company; or

27 (b) National auction company whose primary activity in this state is the sale or disposi-  
28 tion of totaled vehicles.

29 [(2)] (3) The offense described in this section, illegal consignment practices, is a Class A  
30 misdemeanor.

31 [(3)] (4) The department shall adopt rules to carry out the provisions of this section, including  
32 but not limited to rules to specify which persons may take and sell vehicles on consignment and to  
33 regulate the taking and selling of vehicles on consignment from other jurisdictions.

34 **SECTION 2. This 2019 Act being necessary for the immediate preservation of the public**  
35 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
36 **on its passage.**

37

SB 797-1  
(LC 3687)  
3/8/19 (HE/ps)

Requested by Senator MONNES ANDERSON

**PROPOSED AMENDMENTS TO  
SENATE BILL 797**

1 On page 2 of the printed bill, delete lines 23 through 25 and insert:  
2 “(2) The offense described in this section does not apply if the person  
3 takes a vehicle on consignment from an entity other than a retail customer  
4 and the person holds a vehicle dealer certificate issued or renewed under  
5 ORS 822.020 or 822.040 and operates a:”.

6

---