

SB 113 A STAFF MEASURE SUMMARY

Carrier: Sen. Fagan

Senate Committee On Judiciary

Action Date: 04/03/19

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 4-3-0-0

Yeas: 4 - Fagan, Gelser, Manning Jr, Prozanski

Nays: 3 - Bentz, Linthicum, Thatcher

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 3/7, 4/3

WHAT THE MEASURE DOES:

Allows a court, in retail customer action against vehicle dealer for vehicle dealer fraud, misrepresentation, or violation of vehicle code, to award reasonable attorney fees to prevailing plaintiff. Exempts award of attorney fees for actions relating to violations of vehicle code relating to vehicle permits, transfer or alteration of vehicles, and regulation of vehicle dealers. Requires court find plaintiff is a retail customer, a written demand was made on defendant not less than 60 days before commencement of action, and defendant failed to comply or provide remedy within 60 days of receiving demand.

ISSUES DISCUSSED:

- Interim work group efforts
- Relation of actions brought under measure to actions brought under Unlawful Trade Practices Act
- Causes of action found in measure
- Use of bond to compensate injured consumer
- Other options for injured consumers

EFFECT OF AMENDMENT:

Exempts award of attorney fees from actions for vehicle permits, transfer or alteration of vehicles, and regulation of vehicle dealers. Changes time for commencing action and providing cure from 30 days to 60 days.

BACKGROUND:

Oregon Revised Statute 822.030 provides a right for a person to bring an action against a vehicle dealer and against the surety on the vehicle dealer's bond when a person suffers any loss or damage resulting from a dealer's fraud, fraudulent representations, or violations of the vehicle code relating to vehicle registration, permits, transfer or alterations of vehicles, or regulation of dealers.

Senate Bill 113 A allows a court to award reasonable attorney fees to a prevailing plaintiff in an action against the vehicle dealer if the customer made a written demand of the defendant not less than 60 days before commencing an action seeking compliance or other remedy, and the defendant failed to comply or provide the remedy within 60 days of the written demand.