

Enrolled
Senate Bill 792

Sponsored by Senator FREDERICK, Representative KOTEK; Senator DEMBROW, Representatives SANCHEZ, SMITH WARNER

CHAPTER

AN ACT

Relating to auto dismantlers; creating new provisions; and amending ORS 459.715, 822.115, 822.120, 822.125, 822.130, 822.133, 822.140, 822.145 and 822.700.

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

SECTION 1. ORS 822.125 is amended to read:

822.125. (1) The holder of a current, valid dismantler certificate issued under ORS 822.110 is not subject to the prohibitions and penalties under ORS 822.100 as long as the holder's motor vehicle dismantling business is conducted in the location approved under the certificate.

(2) The holder of a dismantler certificate may expand the dimensions or move a place of business approved under the dismantler certificate or open an additional place of business under the certificate upon issuance of a supplemental dismantler certificate by the Department of Transportation. The following apply to supplemental certificates issued under this subsection:

(a) The department shall grant a supplemental certificate upon request of an applicant under this subsection if the applicant obtains local government permission for the supplemental certificate under ORS 822.140.

(b) Upon application for renewal of the supplemental certificate, the department may waive the requirement that an applicant for renewal under this subsection obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a motor vehicle dismantling business.

(c) A fee shall be charged for a supplemental dismantler certificate under ORS 822.700.

(3) A dismantler certificate is valid for a *[three-year]* **one-year** period and may be renewed as provided by the department. The department shall only renew the certificate of any certificate holder who does all of the following:

(a) Pays the required fee for renewal under ORS 822.700.

(b) Completes the application described in ORS 822.115.

(c) Obtains local government approval under ORS 822.140. The department may waive the requirement that an applicant for renewal obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a motor vehicle dismantling business.

(d) Maintains a current bond that meets the requirements under ORS 822.120.

(4) The department may provide the holder of a dismantler certificate with identification cards in the names of the owners of the business or in the names of authorized employees of the business.

(5) The department may adopt suitable rules for the issuance and renewal of dismantler certificates and identification cards.

SECTION 2. ORS 822.700, as amended by section 2, chapter 114, Oregon Laws 2018, is amended to read:

822.700. (1) Fee for issuance or renewal of dismantler certificates covering a single place of business, or a supplemental certificate for each additional place of business to be covered by that certificate and operated under the same name, [~~\$800~~] **\$500.**

(2) Fee for each duplicate dismantler certificate issued under ORS 822.110, \$40.

(3) Fee for original issuance of vehicle dealer certificate under ORS 822.020 or renewal under ORS 822.040 of a vehicle dealer certificate:

(a) \$1,100, for a certificate covering a single place of business; and

(b) \$350, for each additional place of business to be covered by the certificate and operated under the same name.

(4) Fee for each corrected vehicle dealer certificate issued under ORS 822.040, \$30.

(5) If a vehicle dealer or dismantler fails to pay a fee required under this section on or before the date the fee is due, there shall be added as a late payment charge a fee of \$150.

(6) Fee for show license issued under ORS 822.084, \$50.

(7) Fee for issuance of towing business certificate under ORS 822.205 or renewal under ORS 822.210, \$17 for each vehicle used for towing or recovery purposes.

(8) Fee for issuance or renewal of vehicle transporter certificate under ORS 822.310, \$150.

(9) Fee for issuance or renewal of driver training instructor certificate under ORS 822.530, \$100.

(10) Fee for issuance or renewal of commercial driver training school certificate under ORS 822.515, \$200.

(11) Fee for issuance or renewal of vehicle appraiser certificate under ORS 819.480, \$100.

SECTION 3. ORS 822.130 is amended to read:

822.130. (1) The Department of Transportation may inspect the books, records and inventory of [*and the premises used by*] any business issued a certificate under ORS 822.110 for the purpose of determining compliance with any of the following:

(a) Those laws regulating the issuance of certificates to dismantlers.

(b) Requirements for records under ORS 822.135 and 822.137.

(c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.

(d) Rules adopted by the department concerning businesses issued certificates under ORS 822.110.

(2) Except as provided in subsection (4) of this section, each year the department shall inspect the premises used by any business issued a certificate under ORS 822.110 for the purpose of determining whether the items listed in subsection (3) of this section are on the premises and determining compliance with any of the following:

(a) Those laws regulating the issuance of certificates to dismantlers.

(b) Requirements for records under ORS 822.135 and 822.137.

(c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.

(d) Rules adopted by the department concerning businesses issued certificates under ORS 822.110.

(3) If the Department of Transportation determines that any of the following items are on the premises used by a business issued a certificate under ORS 822.110, the Department of Transportation shall submit a report to the Department of Environmental Quality and include information about the following:

(a) The presence of piled waste tires, as defined in ORS 459.705, in an amount greater than 100 waste tires;

(b) If there is a metal shredder;

(c) If there are any open or unlabeled containers of automotive fluids; and

(d) If there is an underground injection control.

(4) The Department of Transportation may inspect a premises under subsection (2) of this section every two years if the three most recent, consecutive inspections show that the business is in compliance with subsection (2)(a) to (d) of this section.

[2)] (5) Provisions for enforcing this section are established under ORS 822.135 and 822.145.

SECTION 4. ORS 822.115 is amended to read:

822.115. An application for a dismantler certificate issued by the Department of Transportation under ORS 822.110 or for renewal of a certificate under ORS 822.125 shall be in a form prescribed by the department and shall contain all of the following:

(1) A full statement of the name of the person applying for the certificate with the person's residence and business addresses.

(2) If the applicant is a firm or partnership, the name of the firm or partnership, with the names and places of residence of all its members.

(3) If the applicant is a corporation, the names of the principal officers and their residences and the name of the state under whose laws the corporation is organized.

(4) A description of the dimensions and the location of the place or places at which the business is to be carried on and conducted.

(5) The applicant's National Motor Vehicle Title Information System identification number.

(6) A fire response plan that is approved by the department. If the plan is disapproved, the applicant may revise the plan to comply with requirements of the department and re-submit the plan.

(7) A description of any applicable permits that are required by the Department of Environmental Quality.

[6)] (8) Any other relevant information required by the Department of Transportation.

SECTION 5. ORS 822.145 is amended to read:

822.145. (1) In addition to any other penalty provided by law, the Department of Transportation may impose sanctions on any person holding a dismantler certificate issued under ORS 822.110 or identification card or supplemental dismantler certificate issued under ORS 822.125 including, but not limited to, probation or suspension, revocation or cancellation of the dismantler certificate or identification card if the department determines at any time for due cause that any of the following has occurred:

(a) The person holding the certificate has failed to comply with any requirements for registration of vehicles under the vehicle code.

(b) The person holding the certificate has violated ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.133, 822.135, 822.137 or 822.150.

(c) The person holding the certificate has caused or suffered or is permitting the unlawful use of the dismantler certificate.

(d) The person holding the certificate has violated any regulation adopted under ORS 822.135.

(e) The person holding the certificate has failed to allow the department to conduct inspections as provided under ORS 822.130.

(f) The person holding an identification card has unlawfully used or permitted unlawful use of the card.

(g) The person holding the certificate is convicted of an offense under ORS 468.922, 468.926, 468.929, 468.931, 468.936, 468.939, 468.943 or 468.946.

(2) The department shall cancel or suspend any dismantler certificate immediately:

(a) Upon receipt of legal notice that the bond described under ORS 822.120 is canceled; or

(b) For failure to pay any penalty imposed under ORS 822.135 or 822.137.

(3) Upon revocation, cancellation or suspension of a dismantler certificate or identification card under this section, the department shall recall and demand the return of the certificate or identification card.

(4) If the department has reason to believe that a person has engaged in or is engaging in any activity prohibited under ORS 822.100, the department may issue an order directed at the person to cease the activity.

(5) The department shall adopt rules establishing sanctions authorized by subsection (1) of this section.

SECTION 6. ORS 822.133 is amended to read:

822.133. (1) As used in this section:

(a) "Crushed motor vehicle" means a motor vehicle, the frame or unibody of which is compacted or flattened so that it no longer resembles any particular year, model or make of motor vehicle and is less than half of the motor vehicle's original volume as measured in cubic feet.

(b) "Destroy" means to dismantle, disassemble, damage or substantially alter a motor vehicle:

(A) With the intent of rendering the vehicle permanently inoperable;

(B) To the extent that the cost of repairing the vehicle exceeds the actual cash value of the vehicle prior to the damage; or

(C) To the extent that the sum of the cost of repairing the vehicle and the salvage value of the vehicle in its damaged condition exceeds the actual cash value of the vehicle in its repaired condition.

(c) "Mobile motor vehicle crusher" means a machine that compacts or flattens a motor vehicle into a crushed motor vehicle and is designed to be transported on a highway.

(d) "Wrecked vehicle" means a motor vehicle:

(A) That is destroyed, or is acquired with the intent to destroy, and that will never be operated as a motor vehicle; or

(B) That has sustained damage to an extent that the vehicle may not lawfully be operated on the highways of this state.

(2) In the operation of a motor vehicle dismantling business, a dismantler:

(a) Must physically separate or visually label a wrecked vehicle in a manner that readily identifies the ownership status of the wrecked vehicle if the dismantler takes possession of the wrecked vehicle without immediately obtaining an ownership record or salvage title certificate. A dismantler need not separate or visually identify a wrecked vehicle pursuant to this subsection if the vehicle is subject to an exemption under ORS 803.030 or is obtained from a jurisdiction that does not issue certificates of title.

(b) May not remove parts from or destroy a motor vehicle prior to obtaining an ownership record or salvage title certificate for the vehicle.

(c) Must demolish the registration plates of a wrecked vehicle at the time the ownership record is received.

(d) Must notify the Department of Transportation of any changes in the information provided to the department in the application for a dismantler certificate within 30 days of the change.

(e) Must furnish a written report to the department, in a form established by the department by rule, after a wrecked vehicle is dismantled or destroyed.

(f) Must, every year, have the premises inspected by local fire inspectors and furnish a written report to the department, in a form established by the department by rule, on the findings of the inspection.

(g) Must be in compliance with any agreement with, order of or program or process authorized by the Department of Environmental Quality that governs the conduct of the dismantler.

(3)(a) A dismantler using a mobile motor vehicle crusher shall:

(A) Hold a current, valid dismantler certificate issued under ORS 822.110.

(B) Conspicuously display on the mobile motor vehicle crusher the name of the dismantler's business as listed on the dismantler's application submitted pursuant to ORS 822.110 and the dismantler certificate number issued by the Department **of Transportation**.

(C) Comply with all of the applicable statutes and rules regulating dismantlers at each location where the dismantler uses the mobile motor vehicle crusher. If the dismantler is using a mobile motor vehicle crusher at a location approved under a dismantler certificate, the dismantler who holds the dismantler certificate for the location shall be responsible for complying with all statutes and rules regarding dismantlers.

(b) If a dismantler is using a mobile motor vehicle crusher at a temporary location for 15 consecutive business days or less, the dismantler is exempt from obtaining a supplemental dismantler certificate under ORS 822.125 for the temporary location.

SECTION 7. ORS 822.120 is amended to read:

822.120. (1) A bond or letter of credit required to qualify for a dismantler certificate under ORS 822.110 or renewal of a certificate under ORS 822.125 must be:

(a) With a corporate surety licensed to transact business within this state, or as to a letter of credit, an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008;

(b) Executed to the State of Oregon;

(c) In the sum of [~~\$10,000~~] **\$100,000**;

(d) Approved as to form by the Attorney General;

(e) Conditioned that the person issued the dismantler certificate will conduct business without violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150; and

(f) Conditioned that the bond or letter of credit is subject to an action under this section.

(2) Any person shall have a right of action against the holder of a dismantler certificate and the surety on the holder's bond or the dismantler's letter of credit issuer if the person suffers any loss or damage by reason of the certificate holder's violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150.

SECTION 8. ORS 822.140 is amended to read:

822.140. (1) To meet the requirement for local government approval of a dismantler certificate under ORS 822.110 or a supplemental certificate under ORS 822.125, an applicant must comply with any regulations established by a city or county under this section and must obtain the approval of the governing body of the:

(a) City, if the business is or will be carried on within an incorporated city of less than 100,000 population.

(b) County, if the business is or will be carried on outside of any incorporated city.

(2) A city or county governing body shall grant approval of a dismantler certificate or renewal when requested under this section if the governing body:

(a) Approves the applicant as being suitable to establish, maintain or operate a motor vehicle dismantling business;

(b) Determines that the location or proposed location meets the requirements for location under ORS 822.110;

(c) Determines that the location does not violate any prohibition under ORS 822.135; and

(d) Approves the location and determines that the location complies with any regulations adopted by a city or county under this section.

(3) The governing body of a city or county may regulate the expansion of premises or the establishment of premises at a new location under a dismantler certificate. An applicant must comply with the regulations before the Department of Transportation may issue a supplemental dismantler certificate. In adopting regulations under this subsection, a governing body:

(a) Shall consider the extent of development of surrounding property as a residential area;

(b) Shall consider the proximity of churches, schools, hospitals, public buildings or other places of public gathering;

(c) Shall consider the sufficiency in number of other motor vehicle dismantling businesses in the vicinity;

(d) Shall consider the health, safety and general welfare of the public;

(e) May establish zones in which motor vehicle dismantling businesses are permissible and other zones where they are prohibited; and

(f) May prescribe limitations on the dimensions of the premises on which motor vehicle dismantling businesses are conducted.

(4) Regulations of a city governing body that are adopted under this section apply to motor vehicle dismantling businesses located outside of and within six miles of the boundaries of the city unless the county governing body in which the area is located has adopted regulations under this section that are applicable in the area.

(5) Before granting approval for a supplemental dismantler certificate, the governing body of a city or county shall notify all property owners that are or that will be adjacent to

the motor vehicle dismantling business once the business moves, expands or opens an additional place of business.

SECTION 9. ORS 459.715 is amended to read:

459.715. (1) No person shall store more than 100 waste tires anywhere in this state except at a waste tire storage site operated under a permit issued under ORS 459.745.

(2) Subsection (1) of this section shall not apply to:

(a) A solid waste disposal site permitted by the Department of Environmental Quality if the permit has been modified by the department to authorize the storage of tires;

(b) A tire retailer with not more than 1,500 waste tires in storage; **or**

(c) A tire retreader with not more than 3,000 waste tires in storage so long as the waste tires are of the type the retreader is actively retreading[; *or*].

[(d) A motor vehicle dismantling business issued a certificate under ORS 822.110 with not more than 1,500 waste tires in storage.]

SECTION 10. (1) **Notwithstanding the amendments to ORS 822.125 by section 1 of this 2019 Act, a dismantler certificate issued or renewed before the effective date of this 2019 Act is valid for three years from the date of issuance.**

(2) **The amendments to ORS 822.120 by section 7 of this 2019 Act apply to dismantler certificates issued or renewed on or after May 1, 2020.**

(3) **Except as provided in subsections (1) and (2) of this section, the amendments to ORS 822.115, 822.125, 822.130, 822.133, 822.140, 822.145 and 822.700 by sections 1 to 6 and 8 of this 2019 Act apply to dismantler certificates issued or renewed on or after the effective date of this 2019 Act.**

Passed by Senate June 29, 2019

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 30, 2019

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

.....
Bev Clarno, Secretary of State