

House Bill 2790

Sponsored by Representative EVANS (at the request of Oregon Vehicle Dealer Association) (Pre-session filed.)

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**.

Directs Department of Transportation to provide two days' notice to vehicle dealers and dismantlers before inspecting records unless department is responding to complaint.

A BILL FOR AN ACT

1
2 Relating to businesses regulated by the Department of Transportation; creating new provisions; and
3 amending ORS 822.035, 822.045 and 822.130.

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

5 **SECTION 1.** ORS 822.035 is amended to read:

6 822.035. The Department of Transportation:

7 (1) Upon receipt of an application for a vehicle dealer certificate, shall examine the application
8 and may make an individual investigation relative to statements contained in the application.

9 (2) Upon being satisfied that an applicant is entitled to a vehicle dealer certificate and that the
10 proper fees have been paid for the certificate, shall assign the vehicle dealer a distinctive dealer
11 number that allows the dealer to conduct business under the certificate and shall forward to the
12 dealer a vehicle dealer certificate stating thereon the dealer's number.

13 (3) Has authority to determine whether or not an applicant for a vehicle dealer certificate is a
14 vehicle dealer.

15 (4) Has authority to make suitable rules for the issuance of vehicle dealer certificates to expire
16 consistently with ORS 822.040.

17 (5) May make inspections of any vehicle dealer records required under ORS 822.045 and of any
18 vehicles included in a vehicle dealer's inventory or located on the vehicle dealer's premises. **For**
19 **inspections instituted by a complaint, the department may conduct the inspections without**
20 **prior notice. For routine or periodic inspections, which may be conducted at reasonable in-**
21 **tervals, the department shall provide at least two days' notice before the date of the in-**
22 **spection. All** inspections authorized by this subsection may be conducted [*by the department at*
23 *reasonable intervals,*] during normal business hours, and may not exceed a scope of inspection nec-
24 essary for the department to determine the following:

25 (a) A vehicle dealer's compliance with statutes regulating vehicle dealers under the vehicle
26 code;

27 (b) A vehicle dealer's compliance with those provisions of the vehicle code regulating the titling
28 and registration of vehicles;

29 (c) A vehicle dealer's compliance with rules adopted by the department relating to the regu-
30 lation of vehicle dealers and the registration and titling of vehicles; and

31 (d) The identification of stolen vehicles.

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 (6) Shall provide a vehicle dealer with plates or devices authorized under ORS 805.200 to allow
 2 the exercise of the privileges granted under ORS 822.040.

3 (7) May provide a vehicle dealer with identification cards in the names of the owners of the
 4 business or in the names of authorized employees of the business.

5 (8) May not issue a vehicle dealer certificate under ORS 822.020 to an applicant who has been
 6 issued a similar certificate from another jurisdiction that has been revoked or is currently suspended
 7 unless the applicant possesses a current, valid vehicle dealer certificate issued under ORS 822.020.

8 (9) May not use the revocation or suspension by another *[state]* **jurisdiction** of a vehicle dealer
 9 certificate or similar certificate as a basis for refusing to allow a vehicle dealer holding a current,
 10 valid vehicle dealer certificate issued under ORS 822.020 to obtain a vehicle dealer certificate under
 11 ORS 822.020 or a supplemental certificate under ORS 822.040 or to renew a certificate under ORS
 12 822.040.

13 (10) May adopt any reasonable rules necessary for the administration of the laws relating to the
 14 regulation of vehicle dealers, the issuance of vehicle dealer certificates, the issuance of vehicle
 15 dealer identification cards, regulation of vehicle dealers designated as agents under ORS 802.031 and
 16 the issuance of vehicle dealer plates. The rules adopted under this subsection must be consistent
 17 with the statutory provisions of the vehicle code. The rules may include, but are not limited to,
 18 grounds and procedures for the revocation, denial, probation or suspension of vehicle dealer certifi-
 19 cates or of a vehicle dealer's designation to act as an agent of the department.

20 **SECTION 2.** ORS 822.045 is amended to read:

21 822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the
 22 penalties under this section if the vehicle dealer commits any of the following offenses:

23 (a) A vehicle dealer commits the offense of failure to obtain a supplemental vehicle dealer cer-
 24 tificate if the vehicle dealer opens any additional place of business using the same business name
 25 as a place of business approved under a vehicle dealer certificate without first obtaining a supple-
 26 mental dealer certificate under ORS 822.040.

27 (b) A vehicle dealer commits the offense of failure to obtain a corrected vehicle dealer certif-
 28 icate if the dealer moves a place of business or changes the business name without first obtaining
 29 a corrected dealer certificate under ORS 822.040.

30 (c) A vehicle dealer commits the offense of failure to maintain proper vehicle dealer records if
 31 the dealer does not keep records or books with all of the following information concerning any used
 32 or secondhand vehicles or campers the dealer deals with:

33 (A) A record of the purchase, sale or exchange or of the dealer's receipt for purpose of sale.

34 (B) A description of the vehicle or camper.

35 (C) The name and address of the seller, the purchaser and the alleged owner or other person
 36 from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.

37 (D) For motor vehicles, the vehicle identification number and any other numbers or identifica-
 38 tion marks as may be thereon and a statement that a number has been obliterated, defaced or
 39 changed, if such is a fact.

40 (E) For trailers and campers, the vehicle identification number and any other numbers or iden-
 41 tification marks as may be thereon.

42 (F) A duly assigned certificate of title or other primary ownership record or a bill of sale from
 43 the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer
 44 disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate,
 45 or if the primary ownership record is in a form other than a document, a dealer shall keep records

1 in accordance with rules adopted by the Department of Transportation for the purpose of complying
2 with this subparagraph.

3 (d) A vehicle dealer commits the offense of failure to allow administrative inspection if the
4 dealer refuses to allow the department to conduct an inspection **as provided** under ORS 822.035
5 [*at any time during normal business hours*].

6 (e) A vehicle dealer commits the offense of failure to allow police inspection if the dealer refuses
7 to allow any police officer to conduct an inspection under ORS 810.480 at any time during normal
8 business hours.

9 (f) A vehicle dealer commits the offense of illegal use of dealer vehicle for hire if the dealer
10 allows any vehicle operated under vehicle dealer registration to be loaned or rented with or without
11 driver for hire or direct compensation.

12 (g) A vehicle dealer commits the offense of improper use of dealer plates or devices if the dealer
13 or employee of the dealer causes or permits the display or use of any special vehicle dealer regis-
14 tration plate or device on any vehicle not owned or controlled by the dealer.

15 (h) A person commits the offense of improper display of dealer plates if the person operates over
16 and along the highways of this state any unregistered vehicle owned or controlled by the dealer and
17 any dealer plates issued are not displayed in the manner provided in ORS 803.540 for the display
18 of registration plates.

19 (i) A vehicle dealer commits the offense of failure to exhibit the dealer certificate if the dealer
20 fails to permanently exhibit the certificate at the place of business of the person at all times while
21 the certificate is in force.

22 (j) Except as provided in subsection (2) of this section, a vehicle dealer commits the offense of
23 failure to provide clear title if:

24 (A) Within 15 days of transfer of any interest in a vehicle or camper to the dealer by a con-
25 sumer, the dealer fails to satisfy:

26 (i) The interest of any person from whom the dealer purchased or obtained the vehicle or
27 camper;

28 (ii) The interest of any person from whom the person described in sub-subparagraph (i) of this
29 subparagraph leased the vehicle or camper; and

30 (iii) All security interests in the vehicle or camper entered into prior to the time of transfer.

31 (B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the pur-
32 chasing dealer fails to satisfy the interest of the dealer from which the purchasing dealer received
33 the certificate of title or other primary ownership document. For purposes of this subparagraph, a
34 purchasing dealer receives a certificate of title or other primary ownership document from a dealer
35 on the date:

36 (i) The purchasing dealer or the Department of Transportation takes physical possession of the
37 certificate or document; or

38 (ii) A written notice is mailed by certified or registered mail, return receipt requested, to the
39 purchasing dealer from the dealer, stating that the certificate or document is available to be picked
40 up at a place and time prearranged by both parties. The written notice must be mailed to a business
41 address of the purchasing dealer that is on file with the department. Service by mail under this
42 sub-subparagraph is effective on the date of mailing.

43 (k) Except as provided in subsection (3) of this section, a vehicle dealer commits the offense of
44 failure to furnish certificate of title or application for title if, within 90 calendar days of transfer
45 of any interest in a vehicle or camper by the dealer, the dealer has failed to:

1 (A) Furnish the certificate of title or other primary ownership record for the vehicle or camper
 2 and any release thereon or, if title has been issued or is to be issued in a form other than a certif-
 3 icate, any information or documents required by rule of the department, to the security interest
 4 holder next named, if any, otherwise to the lessor or, if none, to the purchaser; or

5 (B) Submit to the department in a manner that complies with any applicable statutes and rules,
 6 an application for title on behalf of the person to whom the title is to be furnished or whose name
 7 is to be shown on the title record.

8 (L) A vehicle dealer commits the offense of failure to maintain bond or letter of credit coverage
 9 if the dealer permits a bond or letter of credit to lapse during the period that the bond or letter of
 10 credit is required under ORS 822.020 or 822.040 or if the dealer fails to purchase a bond or letter
 11 of credit required by ORS 822.030.

12 (m) A person commits the offense of acting as a vehicle dealer while under revocation, cancel-
 13 lation or suspension if the person conducts business as a vehicle dealer in this state and the person's
 14 vehicle dealer certificate is revoked, canceled or suspended, regardless of whether the person is li-
 15 censed as a vehicle dealer in another jurisdiction. This paragraph does not apply if the person has
 16 other current, valid dealer certificates issued in this state.

17 (n) A vehicle dealer commits the offense of improper display of a vehicle for advertising pur-
 18 poses if the dealer displays a vehicle at a location other than the dealer's place of business for the
 19 purpose of advertising and the dealer does not comply with the provisions of ORS 822.040 (4).

20 (2) A dealer is not considered to have committed the offense described in subsection (1)(j)(A) of
 21 this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an in-
 22 ventory financing security interest for which the dealer is the debtor.

23 (3) A dealer is not considered to have committed the offense described in subsection (1)(k) of this
 24 section if the dealer demonstrates that:

25 (a) The dealer has made a good faith effort to comply; and

26 (b) The dealer's inability to provide title is due to circumstances beyond the dealer's control.

27 (4) The offenses described in this section are subject to the following penalties:

28 (a) The offense described in this section, failure to obtain a supplemental vehicle dealer certif-
 29 icate, is a Class A misdemeanor.

30 (b) The offense described in this section, failure to obtain a corrected vehicle dealer certificate,
 31 is a Class A misdemeanor.

32 (c) The offense described in this section, failure to maintain proper vehicle dealer records, is a
 33 Class A misdemeanor.

34 (d) The offense described in this section, failure to allow administrative inspection, is a Class
 35 A misdemeanor.

36 (e) The offense described in this section, failure to allow police inspection, is a Class A
 37 misdemeanor.

38 (f) The offense described in this section, illegal use of dealer vehicle for hire, is a Class B traffic
 39 violation.

40 (g) The offense described in this section, improper use of dealer plates or devices, is a Class D
 41 traffic violation.

42 (h) The offense described in this section, improper display of dealer plates, is a Class B traffic
 43 violation.

44 (i) The offense described in this section, failure to exhibit the dealer certificate, is a Class A
 45 misdemeanor.

1 (j) The offense described in this section, failure to provide clear title, is a Class A misdemeanor.

2 (k) The offense described in this section, failure to furnish certificate of title or application for
3 title, is a Class A misdemeanor.

4 (L) The offense described in this section, failure to maintain bond or letter of credit coverage,
5 is a Class A misdemeanor.

6 (m) The offense described in this section, acting as a vehicle dealer while under revocation,
7 cancellation or suspension, is a Class A misdemeanor.

8 (n) The offense described in this section, improper display of a vehicle for advertising purposes,
9 is a Class A misdemeanor.

10 **SECTION 3.** ORS 822.130 is amended to read:

11 822.130. (1) The Department of Transportation may inspect the books, records and inventory of
12 any business issued a certificate under ORS 822.110 for the purpose of determining compliance with
13 any of the following:

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

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

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

17 (d) Rules adopted by the department concerning businesses issued certificates under ORS
18 822.110.

19 (2) Except as provided in subsection (4) of this section, each year the department shall inspect
20 the premises used by any business issued a certificate under ORS 822.110. **For inspections insti-**
21 **tuted by a complaint, the department may conduct the inspections without prior notice. For**
22 **routine or periodic inspections, the department shall provide at least two days' notice before**
23 **the date of the inspection. All inspections authorized by this subsection may be conducted**
24 **during normal business hours, and may not exceed a scope of inspection necessary** for the
25 purpose of determining whether the items listed in subsection (3) of this section are on the premises
26 and determining compliance with any of the following:

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

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

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

30 (d) Rules adopted by the department concerning businesses issued certificates under ORS
31 822.110.

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

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

38 (b) If there is a metal shredder;

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

40 (d) If there is an underground injection control.

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

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

45 **SECTION 4. The amendments to ORS 822.035, 822.045 and 822.130 by sections 1 to 3 of this**

1 **2023 Act apply to inspections conducted on or after the effective date of this 2023 Act.**

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