
OREGON MOTOR VEHICLE DEALERS OPPOSE HOUSE BILL 2801

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Chair Holvey and Members of the Committee:

The Oregon Vehicle Dealer Association (OVDA) represents more than 500 independent business owners across the state of Oregon, making OVDA, by far, the largest auto dealers trade association in Oregon. These dealers are primarily small businesses. The Oregon RV Dealers Association represents Oregon's franchised dealers of RV trailers and self-propelled RVs. Both associations support efforts to curtail the disingenuous practice of "yo-yo" financing. However, both associations have serious concerns about the overly broad scope of HB2801, which prohibits "spot delivery" of motor vehicles.



SPOT DELIVERY: Customer purchases a vehicle at a time when financial institutions are not generally open (evenings and weekends). Customer signs a purchase agreement which includes specific terms, like payment and interest rate, and leaves with the vehicle even though the agreement has not been approved by a financial institution. Financial institution approves the agreement on the exact terms in the purchase agreement once they are open and able to review it. This is a common practice nationally. While reliable statistical information is not available, we believe more than 98 percent of spot deliveries are accepted with no problems.

In rare cases, most often for customers with a difficult credit history, who are served by the subprime market, the dealer will receive conditional approval of the agreement with "stips" (stipulations). The stipulations are generally for the customer to prove certain elements of their credit application. Commonly, these stips will be providing a pay stub, or proof of savings, or to verify the accuracy of some parts of their credit application. If the customer provided accurate information, the agreement is approved on the offered terms.

In extraordinarily unusual cases, no financial institution is willing to fund the purchase agreement on the terms offered based on the customer's credit application. In this case, the customer can (a) agree to sign a new purchase agreement with different terms, or (b) unwind the purchase. If a deal is unwound, the dealer is required to return the customer to pre-purchase conditions. That is, they must return any traded in vehicle. They must refund any monies paid. The customer must be left whole. Oregon law already sets a two week limit for financing approval before the agreement expires.

Anecdotally, customers who cannot get approved financing generally have provided inaccurate, or outright false, information on their credit application in an effort to secure financing.

YO-YO FINANCING: Yo Yo Financing is a disingenuous use of spot delivery. In this case, the selling dealer offers terms to a customer that the dealer knows will not be approved by a financial institution. Nonetheless, these disreputable dealers let customers drive off with their purchased vehicle, only to bring them back later and tell them they cannot get the deal financed without changing the terms. These dealers take unfair advantage of their customers, and this practice should be stopped.

HB2801 does not narrowly combat Yo Yo financing. Instead, it also prohibits the 98 percent of reputable, reliable and accepted spot delivered purchases in an overly broad effort to solve an extraordinarily rare event. It is using a shotgun when only a scalpel is needed.

Should this bill pass, Oregon dealers could lose hundreds, perhaps thousands, of sales annually as customers choose to make purchases in neighboring states which allow for spot delivery. Wouldn't you consider driving across the Columbia River to get a car today if an Oregon dealer is prohibited by law from letting you take the car you want home with you? Statistics suggest that once a car purchaser starts looking, they are likely to buy immediately when presented with an acceptable vehicle and cost.

Had proponents of this legislation started their journey by creating a workgroup which included a broad coalition of stakeholders, perhaps a bill could have been crafted with a narrow and effective solution to a narrow and offensive practice. OVDA and ORVDA are always willing to participate in such efforts whenever invited. No one is more interested in going after disreputable dealers or disingenuous practices than dealers who play by the rules and provide great services to their customers. Bad dealers tarnish the reputations of good dealers.

Unfortunately, this proposal was kept under wraps until right before session started.

Oregon dealers across the state urge you to oppose House Bill 2801. Instead, the proponents should be encouraged to work with dealers, financial institutions, the Department of Justice, DMV, and all other stakeholders at the Oregon Dealer Advisory Committee, created by ORS 802.370, for the very purpose of sharing information and crafting solutions to dealer industry problems. I will gladly answer any questions you have. Please call or email me at your convenience.