

Enrolled
House Bill 3121

Sponsored by Representative MORGAN (at the request of Douglas County Planning Department)

CHAPTER

AN ACT

Relating to vehicles with low appraisal values; creating new provisions; and amending ORS 87.172, 87.192, 87.196, 819.040, 819.150, 822.135 and 822.200.

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

SECTION 1. Section 2 of this 2005 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 2. (1) A person may make a request to an authority described in ORS 819.140 (1)(b) or (c) to dispose of a vehicle that is on the private property of the person and that is appraised at a value of \$500 or less, as determined by a holder of a certificate issued under ORS 819.230, if the person is in lawful possession of the vehicle. For the purposes of this subsection, a person need not have the certificate of title to be in lawful possession of the vehicle.

(2) If the authority requested to dispose of a vehicle under subsection (1) of this section chooses to dispose of the vehicle, the authority shall do all of the following:

- (a) Photograph the vehicle.
- (b) Verify that the person is in lawful possession of the vehicle.
- (c) Provide notification to the person requesting the disposal and the Department of Transportation of all of the following:
 - (A) The name and address of the person requesting the disposal;
 - (B) The vehicle identification number;
 - (C) The appraised value of the vehicle;
 - (D) The appraiser’s certificate number and signature; and
 - (E) The name and address of the authority disposing of the vehicle.

(d) Dispose of the vehicle and its contents to a person who holds a valid wrecker certificate issued under ORS 822.110.

(3) The authority disposing of the vehicle may charge the person requesting the disposal a fee to dispose of the vehicle.

(4) Disposal of a vehicle to a wrecker as provided in this section extinguishes all prior ownership and possessory rights.

(5) The department shall adopt rules specifying the form in which notification required by subsection (2) of this section shall be submitted and what additional information shall be conveyed to the department.

(6) In lieu of submitting ownership or other title documents for the vehicle, the authority disposing of the vehicle may submit to the wrecker a copy of the notification provided to the department under subsection (2) of this section.

SECTION 2a. If House Bill 2429 becomes law, section 2 of this 2005 Act is amended to read:

Sec. 2. (1) A person may make a request to an authority described in ORS 819.140 (1)(b) or (c) to dispose of a vehicle that is on the private property of the person and that is appraised at a value of \$500 or less, as determined by a holder of a certificate issued under ORS 819.230, if the person is in lawful possession of the vehicle. For the purposes of this subsection, a person need not have the certificate of title to be in lawful possession of the vehicle.

(2) If the authority requested to dispose of a vehicle under subsection (1) of this section chooses to dispose of the vehicle, the authority shall do all of the following:

(a) Photograph the vehicle.

(b) Verify that the person is in lawful possession of the vehicle.

(c) Provide notification to the person requesting the disposal and the Department of Transportation of all of the following:

(A) The name and address of the person requesting the disposal;

(B) The vehicle identification number;

(C) The appraised value of the vehicle;

(D) The appraiser's certificate number and signature; and

(E) The name and address of the authority disposing of the vehicle.

(d) Dispose of the vehicle and its contents to a person who holds a valid [*wrecker*] **dismantler** certificate issued under ORS 822.110.

(3) The authority disposing of the vehicle may charge the person requesting the disposal a fee to dispose of the vehicle.

(4) Disposal of a vehicle to a [*wrecker*] **dismantler** as provided in this section extinguishes all prior ownership and possessory rights.

(5) The department shall adopt rules specifying the form in which notification required by subsection (2) of this section shall be submitted and what additional information shall be conveyed to the department.

(6) In lieu of submitting ownership or other title documents for the vehicle, the authority disposing of the vehicle may submit to the [*wrecker*] **dismantler** a copy of the notification provided to the department under subsection (2) of this section.

SECTION 3. ORS 819.040 is amended to read:

819.040. (1) A person commits the offense of illegal salvage procedures if the person engages in crushing, compacting or shredding of vehicles and the person violates any requirements under the following:

(a) The person may accept vehicles as salvage material from other persons who hold a certificate as a wrecker issued under ORS 822.110.

(b) Except as otherwise provided in this subsection, the person may not accept vehicles from another person who does not hold a certificate as a wrecker issued under ORS 822.110, unless the other person:

(A) Complies with the requirements of ORS 819.010, or is in possession of a certificate of sale issued under ORS 819.240 or of a salvage title certificate; and

(B) Displays a salvage title certificate, a compliance form issued under ORS 819.030, or a certificate of sale to the person engaged in salvage.

(c) The person engaged in salvage may accept a copy of the Department of Transportation form issued under ORS 819.030 as proof of compliance under ORS 819.010 or may accept a certificate of sale or a salvage title certificate, as applicable, and surrender such copy or certificate to the department.

(d) The person may accept vehicles as salvage material from authorities or tow businesses disposing of vehicles as authorized under ORS 819.215 **or section 2 of this 2005 Act** if the authority or tow business gives the person a copy of notification made to the department under ORS 819.215 **or section 2 of this 2005 Act**.

(2) If a salvage title has been issued in a form other than a certificate, the person engaged in salvage may accept documents or information in a manner or form determined by the department by rule.

(3) The offense described in this section, illegal salvage procedures, is a Class A misdemeanor.

SECTION 4. ORS 819.150 is amended to read:

819.150. The owner, a person entitled to possession or any person with an interest recorded on the title of a vehicle taken into custody under ORS 819.110 or 819.120:

(1) Is liable for all costs and expenses incurred in the removal, preservation and custody of the vehicle and its contents except that:

(a) The owner, a person entitled to the vehicle or any person with an interest recorded on the title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days unless the person has received a written notice under ORS 819.160. In no case shall a person be required to pay storage charges for a storage period in excess of 60 days.

(b) A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under ORS 819.210 or 819.220 upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

(3) If the vehicle is taken into custody under ORS 819.110 or 819.120, has a right to request and have a hearing under ORS 819.190 or under procedures established under ORS 801.040, as appropriate.

(4) If the vehicle is sold or disposed of under ORS 819.210, 819.215 or 819.220 **or section 2 of this 2005 Act**, has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

(5) If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS 819.260.

(6) Has no right to a hearing if the vehicle is disposed of under ORS 819.215 **or section 2 of this 2005 Act**.

SECTION 5. ORS 822.135 is amended to read:

822.135. (1) A person commits the offense of improperly conducting a wrecking business if the person holds a wrecker certificate issued under ORS 822.110 and the person does any of the following:

(a) Fails to permanently exhibit the wrecker certificate at the place of business of the person at all times while the certificate is in force.

(b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental wrecker certificate by the procedure under ORS 822.125.

(c) Fails to maintain records at the person's established place of business that record and describe the following:

(A) Every motor vehicle purchased, transferred, wrecked, dismantled, disassembled or substantially altered by the person;

(B) The name and address of the person to and from whom the vehicle was transferred;

(C) The vehicle identification number and other identification marks or numbers on the vehicle; and

(D) A statement indicating any such numbers or marks that have been obliterated, defaced or changed.

(d) Except as otherwise provided, fails to have in the person's possession a duly assigned certificate of title or other primary ownership document or notification of award or purchase for a motor vehicle from the time the vehicle is delivered to the person until the person disposes of the vehicle. If no certificate of title or primary ownership record in the form of a document has been issued for the vehicle, the person shall comply with rules adopted by the Department of Transpor-

tation for documents the person is required to keep. If the certificate of title has been surrendered, the person must have a notification of award or purchase in order to comply with the provisions of this paragraph. If the vehicle is delivered to the person under the provisions of ORS 819.215 or **section 2 of this 2005 Act**, a copy of the notification to the department under ORS 819.215 or **section 2 of this 2005 Act** is sufficient to comply with the provisions of this paragraph.

(e) Refuses, at any time, to allow a police officer to inspect the books, records, inventory or premises of the person's wrecking business.

(f) Fails to maintain, for the purposes of the person's wrecking business, a building or an enclosure or other barrier at least six feet in height that is constructed, established or formed in compliance with rules adopted by the department.

(g) Fails to keep the premises on the outside of the establishment clear and clean at all times.

(h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

(i) Except as otherwise provided in this paragraph, stores any vehicles or vehicle parts or conducts the business outside of the building, enclosure or barrier on the premises of the business. A person is not in violation of this paragraph if the person complies with the following limits:

(A) In an area zoned by the city or county for industrial use, a wrecking business may display and offer for sale motor vehicle parts or nonoperating vehicles outside the enclosure or barrier in a single defined area limited to not more than five percent of the total area of the business and if no more than eight vehicles are displayed.

(B) In an area zoned by the city or county for any use other than industrial use, a wrecking business may offer not more than four vehicles for sale in an area outside of the building, enclosure or barrier.

(j) Fails to immediately file with the department, upon transfer of a wrecked or dismantled vehicle, the form furnished by the department to report the date of transfer, a description of the vehicle, the name and address of the purchaser and other information respecting the vehicle required by the department.

(k) Except as otherwise provided in this paragraph, fails to keep the business hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other appropriate means so as not to be visible from the main traveled way of the highway in accordance with the rules of the Director of Transportation. This paragraph does not apply to a business that is:

(A) Farther than 1,100 feet from the nearest edge of the right of way of any state highway;

(B) Located in an area zoned for industrial use under authority of the laws of this state; or

(C) A business established before June 30, 1967.

(L) Expands or moves any place of business approved under a wrecker certificate or opens any additional locations for the wrecking business without obtaining a supplemental certificate under ORS 822.125 or obtaining an additional wrecker certificate.

(m) Fails to allow the department to conduct inspections as provided under ORS 822.130.

(2) The offense described in this section, improperly conducting a wrecking business, is a Class A misdemeanor.

SECTION 6. ORS 822.200 is amended to read:

822.200. (1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310.

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

(c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.

(d) An employee of a person issued a towing business certificate under ORS 822.205 while that employee is performing official duties as an employee.

(e) A person who holds a valid wrecker certificate under ORS 822.110 who tows a vehicle described under section 2 of this 2005 Act.

(3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor.

SECTION 6a. If House Bill 2429 becomes law, ORS 822.200, as amended by section 6 of this 2005 Act, is amended to read:

822.200. (1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310.

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

(c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.

(d) An employee of a person issued a towing business certificate under ORS 822.205 while that employee is performing official duties as an employee.

(e) A person who holds a valid [wrecker] dismantler certificate under ORS 822.110 who tows a vehicle described under section 2 of this 2005 Act.

(3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor.

SECTION 7. ORS 87.172 is amended to read:

87.172. (1) Except as otherwise provided in this section, a person claiming a lien under ORS 87.152 to 87.162 must retain the chattel that is subject to the lien for at least 60 days after the lien attaches to the chattel before foreclosing the lien.

(2) A person claiming a lien under ORS 87.152 for cost of care, materials and services bestowed on an animal must retain the animal for at least 30 days after the lien attaches to the animal before foreclosing the lien. If the animal is a dog or cat, the period shall be at least 15 days.

(3) A person claiming a lien under ORS 87.152 for the cost of removing, towing or storage of a vehicle that is appraised [*at a value of \$1,000 or less but more than \$500*] by a person who holds a certificate issued under ORS 819.230 **to have a value of:**

(a) \$1,000 or less but more than \$500, must retain the vehicle at least 30 days after the lien attaches to the vehicle before foreclosing the lien.

(b) \$500 or less, must retain the vehicle at least 15 days after the lien attaches to the vehicle before foreclosing the lien.

SECTION 8. ORS 87.192 is amended to read:

87.192. (1) Before a lien claimant forecloses a lien created by ORS 87.152 to 87.162 by sale, the lien claimant shall give notice of the foreclosure sale to the lien debtor by [*registered*] **first class mail with certificate of mailing, registered mail** or certified mail sent to the lien debtor at the lien debtor's last-known address. The lien claimant shall give notice of the foreclosure sale to the lien debtor:

(a) Except as [*provided in paragraph (b) or (c) of*] **otherwise provided in** this subsection, at least 30 days before the foreclosure sale.

(b) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230, at least 15 days before the foreclosure sale.

[(b)] (c) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$1,000 or less but more than \$500 by a person who holds a certificate issued under ORS 819.230, at least 15 days before the foreclosure sale.

[(c)] (d) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of more than \$1,000 by a person who holds a certificate issued under ORS 819.230, at least 30 days before the foreclosure sale.

(2) The lien claimant shall give public notice of the foreclosure sale by posting notice of it in a public place at or near the front door of the county courthouse of the county in which the sale is to be held and, except as provided in paragraph (b) of this subsection, in a public place at the location where the lien claimant obtained possession of the chattel to be sold from the lien debtor. The following apply to notice under this subsection:

(a) Notice under this subsection must be given no later than the time required for notice to a lien debtor under subsection (1) of this section.

(b) This subsection does not require posting of notice at the location where the chattel was obtained if the chattel is a vehicle required to obtain a certificate of title issued under ORS chapter 803.

(3) If the chattel to be sold at a foreclosure sale is something other than an abandoned vehicle and has a fair market value of \$1,000 or more, or if the chattel to be sold is an abandoned vehicle and has a fair market value of \$2,500 or more, the lien claimant, in addition to the notice required by subsection (2) of this section, shall have a notice of foreclosure sale printed once a week for two successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, published in the county in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally circulated in the county in which the sale is held.

(4) The notice of foreclosure sale required under this section shall contain a particular description of the property to be sold, the name of the owner or reputed owner thereof, the amount due on the lien, the time and the place of the sale and the name of the person foreclosing the lien.

SECTION 9. ORS 87.196 is amended to read:

87.196. (1) A lien claimant who forecloses a lien created by ORS 87.152 to 87.162 by sale shall give notice of the foreclosure sale by first class, registered or certified mail. The notice shall comply with the following:

(a) Notice shall be given to all persons with a security interest in the chattel to be sold who have filed a financing statement perfecting that security interest in the office of the Secretary of State or in the office of the appropriate county officer of the county in which the sale is held.

(b) Notwithstanding paragraph (a) of this subsection if the chattel to be sold at the foreclosure sale is a chattel other than part of the motor vehicle inventory of a dealer issued a vehicle dealer certificate under ORS 822.020 for which a certificate of title is required by the laws of this state, notice need only be given to persons whom the certificate of title indicates have a security interest or lien in the chattel.

(c) Notice under this subsection shall be given at least 30 days prior to the foreclosure sale. However, if the lien is claimed under ORS 87.152, the lien claimant shall give the notice required by this subsection:

(A) Not later than the 20th day after the date on which the storage charges begin;
(B) If no storage charges are imposed, not later than the 30th day after the date on which the services provided are completed; [and]

(C) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$1,000 or less but more than \$500 by a person who holds a certificate issued under ORS 819.230[.]; and

(D) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230.

(2) A person notified under this section may discharge the lien and preserve the person's security interest by paying the lien claimant the amount of the lien claim and reasonable expenses actually incurred in foreclosing it. If the person does not so discharge the lien before the day of the foreclosure sale, the person's security interest is extinguished.

(3) If the chattel to be sold at a foreclosure sale is a chattel for which a certificate of title is required by the laws of this state and if the lien claimant does not notify a person as required by this section, the chattel remains subject to that security interest or lien and the buyer of the chattel at a foreclosure sale held under ORS 9.370, 87.142 to 87.490, 87.705, 87.710, 87.910 and 90.120 takes the chattel subject to the security interest or lien.

(4) If a lien claimant does not notify a person, other than a person indicated on a certificate of title as a secured party or lienholder, who claims a security interest or lien on the chattel sold at a foreclosure sale as required by subsection (1) of this section, the lien claimant is liable to that person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the amount due that person under the security agreement or lien at the time of the foreclosure sale, whichever amount is less. The secured party or other lien claimant shall recover that sum by an action at law.

SECTION 10. The amendments to ORS 87.172, 87.192 and 87.196 by sections 7 to 9 of this 2005 Act apply to liens attached on or after the effective date of this 2005 Act.

Passed by House May 17, 2005

Received by Governor:

Repassed by House August 1, 2005

.....M.,....., 2005

Approved:

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

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Governor

Passed by Senate July 30, 2005

Filed in Office of Secretary of State:

.....M.,....., 2005

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President of Senate

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Secretary of State