

House Bill 3126

Sponsored by Representative JENSON (at the request of Umatilla County Solid Waste Committee)

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**.

Requires transferor of vehicle to provide Department of Transportation with name and address of transferee.

Modifies offense of abandoning vehicle. Requires suspension of driving privileges of person who abandons vehicle. Stipulates that suspension remains in effect for minimum of 90 days and until person pays costs of removal, storage and disposition of abandoned vehicle. Punishes by minimum fine of \$250 or, if costs for removal, storage and disposition of abandoned vehicle are paid, by minimum fine of \$50.

Requires person claiming lien for costs of removing, towing or storage of vehicle appraised at value of \$500 or less to retain vehicle for 15 days after lien attaches before foreclosing lien.

A BILL FOR AN ACT

1
2 Relating to motor vehicles; creating new provisions; and amending ORS 87.172, 87.192, 87.196,
3 803.112, 803.113, 803.117 and 819.100.

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

5 **SECTION 1.** ORS 803.112 is amended to read:

6 803.112. (1) Except as otherwise provided in this section, the transferor of an interest in a ve-
7 hicle covered by an Oregon title shall notify the Department of Transportation of the transfer within
8 10 days of the date of transfer. The notice shall **include the name and address of the transferee**
9 **and** be in a form determined by the department by rule.

10 (2) For purposes of giving notice under this section, if the transfer occurs by operation of law,
11 the personal representative, receiver, trustee, sheriff or other representative or successor in interest
12 of the person whose interest is transferred shall be considered the transferor.

13 (3) The requirements of this section do not apply upon creation, termination or change in a se-
14 curity interest or a leasehold interest or upon award of ownership of a motor vehicle made by court
15 order.

16 (4) A vehicle dealer is exempt from the notice requirement of this section if the dealer:

17 (a) Transfers the vehicle to another dealer; or

18 (b) Submits an application for title to the vehicle on behalf of the buyer of the vehicle.

19 (5) Notification provided under this section is for informational purposes only and does not
20 constitute an assignment or release of any interest in the vehicle.

21 **SECTION 2.** ORS 803.113 is amended to read:

22 803.113. (1) Except as otherwise provided by rule of the Department of Transportation under
23 subsection (3) of this section, upon receipt of a notification of transfer described in ORS 803.112, the
24 department shall make a notation on its records indicating that it has received notification that an
25 interest in the vehicle has been transferred. The notation shall be made whether or not the form
26 submitted to the department contains all the information required by the department under ORS
27 803.112, so long as **the name and address of the transferee is provided and** there is sufficient

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 information to identify the vehicle. Thereafter, until a new title is issued, when the department is
 2 asked to provide the name of the owner of a vehicle as shown on its records, the department shall
 3 provide the name **and address** of the transferor **and transferee** and indicate that department re-
 4 cords show a notification of transfer but do not show a title transfer. *[The department shall also*
 5 *provide the name of the transferee if it is shown on the form submitted by the transferor under ORS*
 6 *803.112.]*

7 (2) Whenever the Oregon Vehicle Code or other statute requires notice to the owner of a motor
 8 vehicle, the person required to provide notice shall provide the notice to the current owner as
 9 shown on the records of the department and to any transferee shown as a result of notification to
 10 the department under ORS 803.112.

11 (3) The department may adopt rules for the implementation of ORS 803.112 and this section.
 12 Rules shall be designed to allow the department to implement ORS 803.112 and this section in a way
 13 that is efficient and convenient for the public and the department. Rules under this section may
 14 include, but need not be limited to, rules authorizing the department to remove information recorded
 15 under this section and specifying circumstances under which information submitted need not be re-
 16 corded.

17 **SECTION 3.** ORS 803.117 is amended to read:

18 803.117. A transferor who has made a bona fide transfer of a vehicle and has delivered pos-
 19 session of it to a transferee shall not, by reason of any of the provisions of the Oregon Vehicle Code,
 20 be subject to civil liability or criminal liability for the parking, abandoning or operation of the ve-
 21 hicle by another person when the transferor has:

22 (1) Notified the Department of Transportation of the transfer; *[and]*

23 **(2) Provided the department with the name and address of the transferee; and**

24 *[(2)]* **(3) Assigned the title to the transferee.**

25 **SECTION 4. The amendments to ORS 803.112, 803.113 and 803.117 by sections 1 to 3 of this**
 26 **2005 Act apply to vehicles transferred on or after the effective date of this 2005 Act.**

27 **SECTION 5.** ORS 819.100 is amended to read:

28 819.100. (1) A person commits the offense of abandoning a vehicle if the person abandons a ve-
 29 hicle upon a highway or upon any public or private property **and fails to remove the vehicle**
 30 **within 24 hours.**

31 **(2) Except when notification of transfer of interest has been provided in accordance with**
 32 **ORS 803.112,** the owner of the vehicle as shown by the records of the Department of Transportation
 33 *[shall be]* **is** considered responsible for the abandonment of a vehicle in the manner prohibited by
 34 this section and *[shall be]* **is** liable for the *[cost]* **costs** of removal, **storage** and disposition of the
 35 abandoned vehicle. **If notification of transfer of interest has been provided in accordance with**
 36 **ORS 803.112, the transferee is considered responsible for the abandonment and is liable for**
 37 **the costs of removal, storage and disposition of the vehicle.**

38 (3) A vehicle abandoned in violation of this section is subject to the provisions for removal of
 39 abandoned vehicles under ORS **98.830, 98.835, 98.840,** 819.110 and 819.120 and to being sold **or dis-**
 40 **posed of** as provided under ORS 819.210, **819.215** or 819.220.

41 (4) The offense described in this section, abandoning a vehicle, is a Class B traffic violation[.],
 42 **except that a person in violation of this section shall pay a minimum fine of \$250 unless the**
 43 **person produces evidence satisfactory to the department that all costs of removal, storage**
 44 **and disposition of the abandoned vehicle have been paid. If a person in violation of this sec-**
 45 **tion produces evidence satisfactory to the department that all costs of removal, storage and**

1 **disposition of the abandoned vehicle have been paid, the person shall pay a minimum fine of**
 2 **\$50. In addition to any other penalty, a person convicted of abandoning a vehicle is subject**
 3 **to suspension of driving privileges as provided in section 7 of this 2005 Act.**

4 **SECTION 6. Section 7 of this 2005 Act is added to and made a part of the Oregon Vehicle**
 5 **Code.**

6 **SECTION 7. (1) Upon receipt of a record of a person's conviction of abandoning a vehicle**
 7 **under ORS 819.100, the Department of Transportation shall suspend the person's driving**
 8 **privileges or right to apply for driving privileges. The suspension shall remain in effect for**
 9 **a minimum of 90 days and until the person produces evidence satisfactory to the department**
 10 **that all costs of removal, storage and disposition for the abandoned vehicle have been paid,**
 11 **and the person has paid a fee of \$50 to the department in addition to the fee for rein-**
 12 **statement of suspended driving privileges under ORS 807.370.**

13 **(2) A person is entitled to an administrative review of a suspension under this section.**

14 **SECTION 8. Section 7 of this 2005 Act and the amendments to ORS 819.100 by section 5**
 15 **of this 2005 Act apply to vehicles abandoned on or after the effective date of this 2005 Act.**

16 **SECTION 9. ORS 87.172 is amended to read:**

17 87.172. (1) Except as otherwise provided in this section, a person claiming a lien under ORS
 18 87.152 to 87.162 must retain the chattel that is subject to the lien for at least 60 days after the lien
 19 attaches to the chattel before foreclosing the lien.

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

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

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

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

30 **SECTION 10. ORS 87.192 is amended to read:**

31 87.192. (1) Before a lien claimant forecloses a lien created by ORS 87.152 to 87.162 by sale, the
 32 lien claimant shall give notice of the foreclosure sale to the lien debtor by registered or certified
 33 mail sent to the lien debtor at the lien debtor's last-known address. The lien claimant shall give
 34 notice of the foreclosure sale to the lien debtor:

35 (a) Except as [*provided in paragraph (b) or (c) of*] **otherwise provided in** this subsection, at least
 36 30 days before the foreclosure sale.

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

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

43 [(c)] (d) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised
 44 at a value of more than \$1,000 by a person who holds a certificate issued under ORS 819.230, at least
 45 30 days before the foreclosure sale.

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

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

8 (b) This subsection does not require posting of notice at the location where the chattel was
 9 obtained if the chattel is a vehicle required to obtain a certificate of title issued under ORS chapter
 10 803.

11 (3) If the chattel to be sold at a foreclosure sale is something other than an abandoned vehicle
 12 and has a fair market value of \$1,000 or more, or if the chattel to be sold is an abandoned vehicle
 13 and has a fair market value of \$2,500 or more, the lien claimant, in addition to the notice required
 14 by subsection (2) of this section, shall have a notice of foreclosure sale printed once a week for two
 15 successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, published in the county
 16 in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS
 17 193.010, generally circulated in the county in which the sale is held.

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

21 **SECTION 11.** ORS 87.196 is amended to read:

22 87.196. (1) A lien claimant who forecloses a lien created by ORS 87.152 to 87.162 by sale shall
 23 give notice of the foreclosure sale by first class, registered or certified mail. The notice shall comply
 24 with the following:

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

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

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

36 (A) Not later than the 20th day after the date on which the storage charges begin;

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

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

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

45 (2) A person notified under this section may discharge the lien and preserve the person's secu-

1 rity interest by paying the lien claimant the amount of the lien claim and reasonable expenses ac-
2 tually incurred in foreclosing it. If the person does not so discharge the lien before the day of the
3 foreclosure sale, the person's security interest is extinguished.

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

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

16 **SECTION 12. The amendments to ORS 87.172, 87.192 and 87.196 by sections 9 to 11 of this**
17 **2005 Act apply to liens attached on or after the effective date of this 2005 Act.**

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