

Senate Bill 999

Sponsored by COMMITTEE ON RULES (at the request of Oregon Auto Dealers Association)

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 Department of Transportation to classify vehicle dealer certificate as franchised vehicle dealer, independent vehicle dealer, broker or wholesaler. Limits activities of vehicle dealer based on classification of dealer certificate.

Creates offense of conducting business outside classification of dealer certificate. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

A BILL FOR AN ACT

1
2 Relating to vehicle dealers; creating new provisions; and amending ORS 822.020, 822.025, 822.035,
3 822.040, 822.045, 822.047 and 822.050.

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

5 **SECTION 1.** ORS 822.020 is amended to read:

6 822.020. (1) Except as provided in ORS 822.035 (8), the Department of Transportation shall issue
7 a vehicle dealer certificate to any person if the person meets all of the following requirements:

8 [1] (a) The person must complete the application for a dealer certificate described under ORS
9 822.025.

10 [2] (b) The person must deliver to the department a bond or letter of credit that meets the
11 requirements under ORS 822.030.

12 [3] (c) The person must deliver to the department a certificate of insurance that meets the
13 requirements established by ORS 822.033.

14 [4] (d) The person must pay the fee required under ORS 822.700 for issuance of a vehicle dealer
15 certificate.

16 [5] (e) The person must certify completion of the education and test requirements of ORS
17 822.027 (1) if the person is a dealer subject to the education and test requirements.

18 (2) **A vehicle dealer certificate issued by the department under subsection (1) of this**
19 **section shall be classified as follows:**

20 (a) **Franchised vehicle dealer;**

21 (b) **Independent vehicle dealer;**

22 (c) **Broker; or**

23 (d) **Wholesaler.**

24 (3) **The department may not issue more than one classification of vehicle dealer certifi-**
25 **cate to any one person.**

26 **SECTION 2.** Section 3 of this 2005 Act is added to and made a part of the Oregon Vehicle
27 Code.

28 **SECTION 3.** (1) **A vehicle dealer issued a certificate under ORS 822.020 classified as a**
29 **franchised vehicle dealer:**

30 (a) **Must have a franchise, as defined in ORS 650.120, with a manufacturer, distributor**

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 or importer and engage in buying, selling, leasing or exchanging new vehicles;

2 (b) May buy, sell or consign new or previously owned vehicles;

3 (c) May include both new or previously owned vehicles in the vehicle dealer's inventory;

4 and

5 (d) May not have a financial or ownership interest in a broker as defined in ORS 822.047.

6 (2) A vehicle dealer issued a certificate under ORS 822.020 classified as an independent
7 vehicle dealer:

8 (a) May buy, sell or consign only previously owned vehicles;

9 (b) May include only previously owned vehicles in the vehicle dealer's inventory; and

10 (c) May not have a financial or ownership interest in a broker as defined in ORS 822.047.

11 (3) A vehicle dealer issued a certificate under ORS 822.020 classified as a broker:

12 (a) Must comply with the requirements of a broker under ORS 822.047;

13 (b) May act only under contract to negotiate on behalf of a buyer to purchase a motor
14 vehicle or on behalf of a seller to sell a motor vehicle;

15 (c) May not maintain an inventory of motor vehicles; and

16 (d) May not have a financial or ownership interest in any other vehicle dealer issued a
17 certificate under ORS 822.020.

18 (4) A vehicle dealer issued a certificate under ORS 822.020 classified as a wholesaler:

19 (a) May purchase vehicles only from vehicle dealers issued a certificate under ORS
20 822.020 or persons selling vehicles from a fleet; and

21 (b) May not have a financial or ownership interest in a broker as defined in ORS 822.047.

22 **SECTION 4.** Section 3 of this 2005 Act and the amendments to ORS 822.020 by section 1
23 of this 2005 Act apply to vehicle dealer certificates issued on or after the effective date of
24 this 2005 Act.

25 **SECTION 5.** ORS 822.047 is amended to read:

26 822.047. (1) A broker may not collect a nonrefundable fee from a buyer or seller unless the
27 broker has a written contract with the buyer or seller that includes:

28 (a) A description of the specific services to be provided by the broker;

29 (b) A description of the fees the broker will charge, including any fee that is required to be paid
30 before the motor vehicle is delivered to the buyer; and

31 (c) A statement of whether or not the broker is responsible for warranty service work on the
32 motor vehicle.

33 (2) A broker may not calculate any fee charged to:

34 (a) The buyer as a percentage of the savings achieved by the broker for the buyer on the pur-
35 chase of the motor vehicle; or

36 (b) The seller as a percentage of the profit achieved by the broker for the seller on the
37 sale of the motor vehicle.

38 (3) When representing a buyer or seller, a broker must act only as an agent for the [buyer]
39 person the broker represents but may receive a fee in connection with the transaction.

40 (4) As used in this section, "broker" means any person who, for commercial purposes, negotiates
41 on behalf of a buyer the purchase of a motor vehicle from a person other than a [another] motor
42 vehicle dealer or negotiates the sale of a motor vehicle on behalf of a person other than a
43 motor vehicle dealer.

44 **SECTION 6.** The amendments to ORS 822.047 by section 5 of this 2005 Act apply to broker
45 transactions conducted on or after the effective date of this 2005 Act.

SECTION 7. ORS 822.025 is amended to read:

822.025. An application for a vehicle dealer certificate issued by the Department of Transportation under ORS 822.020 shall be in a form prescribed by the department and shall contain all of the following:

(1) The names and residence addresses of the persons applying:

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

(b) If the applicant is a corporation, the name of the corporation with the names of the principal officers and their residence addresses and the name of the state under whose laws the corporation is organized.

(2) The name under which the business will be conducted.

(3) The street address, including city and county in Oregon, where the business will be conducted.

(4) *[Whether or not used vehicles are handled]* **The classification of vehicle dealer certificate being applied for and information to substantiate that the business to be conducted by the applicant falls within the requirements of the classification.**

(5) A certificate from the applicant showing that the applicant will act as a vehicle dealer and will conduct business at the location given on the application.

(6)(a) A certificate signed by a person authorized by the local governing body to do so, stating that the location of the business as given in the application for a certificate complies with any land use ordinances or business regulatory ordinances of the city or county. The provisions of this paragraph do not apply to renewal of a vehicle dealer certificate under ORS 822.040 unless the location of the business is being changed at the time of renewal.

(b) If the business will be located within a residential zone and the application indicates that the dealer will sell or display only manufactured homes, as defined in ORS 446.003, the local governing body may condition the approval of the application under this subsection by:

(A) Prohibiting sale or display of other types of vehicles at the location; or

(B) Requiring that the manufactured homes that are on display comply with architectural and aesthetic standards regulating permanent placement of manufactured homes in the residential zone.

(7) Any information required by the department to efficiently administer the registration of vehicles and regulation of dealers or other relevant information required by the department.

(8) A certificate from the provider of each education program or test showing that the applicant has completed the education programs and passed the test required under ORS 822.027 (1) if the applicant is a dealer subject to the education and test requirements.

(9) If the applicant will offer new recreational vehicles for sale, a certificate from the applicant stating that the applicant will maintain a recreational vehicle service facility at the street address provided by the applicant pursuant to subsection (3) of this section.

SECTION 8. ORS 822.025, as amended by section 126, chapter 655, Oregon Laws 2003, is amended to read:

822.025. An application for a vehicle dealer certificate issued by the Department of Transportation under ORS 822.020 shall be in a form prescribed by the department and shall contain all of the following:

(1) The names and residence addresses of the persons applying:

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

1 (b) If the applicant is a corporation, the name of the corporation with the names of the principal
 2 officers and their residence addresses and the name of the state under whose laws the corporation
 3 is organized.

4 (2) The name under which the business will be conducted.

5 (3) The street address, including city and county in Oregon, where the business will be con-
 6 ducted.

7 (4) *[Whether or not used vehicles are handled]* **The classification of vehicle dealer certificate**
 8 **being applied for and information to substantiate that the business to be conducted by the**
 9 **applicant falls within the requirements of the classification.**

10 (5) A certificate from the applicant showing that the applicant will act as a vehicle dealer and
 11 will conduct business at the location given on the application.

12 (6) A certificate signed by a person authorized by the local governing body to do so, stating that
 13 the location of the business as given in the application for a certificate complies with any land use
 14 ordinances or business regulatory ordinances of the city or county. The provisions of this subsection
 15 do not apply to renewal of a vehicle dealer certificate under ORS 822.040 unless the location of the
 16 business is being changed at the time of renewal.

17 (7) Any information required by the department to efficiently administer the registration of ve-
 18 hicles and regulation of dealers or other relevant information required by the department.

19 (8) A certificate from the provider of each education program or test showing that the applicant
 20 has completed the education programs and passed the test required under ORS 822.027 (1) if the
 21 applicant is a dealer subject to the education and test requirements.

22 (9) If the applicant will offer new recreational vehicles for sale, a certificate from the applicant
 23 stating that the applicant will maintain a recreational vehicle service facility at the street address
 24 provided by the applicant pursuant to subsection (3) of this section.

25 **SECTION 9.** ORS 822.035 is amended to read:

26 822.035. The Department of Transportation:

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

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

33 (3) Has authority to determine whether or not an applicant for a vehicle dealer certificate is a
 34 vehicle dealer **and complies with the requirements of the classification for which the applicant**
 35 **was issued a vehicle dealer certificate.**

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

38 (5) May make inspections of any vehicle dealer records required under ORS 822.045 and of any
 39 vehicles included in a vehicle dealer's inventory or located on the vehicle dealer's premises. In-
 40 spections authorized by this subsection may be conducted by the department at reasonable intervals,
 41 during normal business hours, and may not exceed a scope of inspection necessary for the depart-
 42 ment to determine the following:

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

45 (b) A vehicle dealer's compliance with those provisions of the vehicle code regulating the titling

1 and registration of vehicles;

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

4 (d) The identification of stolen vehicles.

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

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

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

12 (9) May not use the revocation or suspension by another *[state]* **jurisdiction** of a vehicle dealer
 13 certificate or similar certificate as a basis for refusing to allow a vehicle dealer holding a current,
 14 valid vehicle dealer certificate issued under ORS 822.020 to obtain a vehicle dealer certificate under
 15 ORS 822.020 or a supplemental certificate under ORS 822.040 or to renew a certificate under ORS
 16 822.040.

17 (10) May adopt any reasonable rules necessary for the administration of the laws relating to the
 18 regulation of vehicle dealers, the issuance of vehicle dealer certificates, the issuance of vehicle
 19 dealer identification cards and the issuance of vehicle dealer plates. The rules adopted under this
 20 subsection must be consistent with the statutory provisions of the vehicle code. The rules may in-
 21 clude, but are not limited to, grounds and procedures for the revocation, denial or suspension of
 22 vehicle dealer certificates and for placing vehicle dealers on probationary status.

23 **SECTION 10. The amendments to ORS 822.025 and 822.035 by sections 7 to 9 of this 2005**
 24 **Act apply to applications for vehicle dealer certificates received by the Department of**
 25 **Transportation on or after the effective date of this 2005 Act.**

26 **SECTION 11.** ORS 822.040 is amended to read:

27 822.040. (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020
 28 may exercise the following privileges under the certificate:

29 (a) A dealer is authorized, without violating ORS 803.025 or 803.300, to use and operate over
 30 and along the highways of this state all vehicles displaying the dealer's plates whether registered
 31 or not or whether or not a title is issued for the vehicle subject to the following:

32 (A) This paragraph does not authorize dealers to use or operate vehicles under dealer plates
 33 unless the vehicles are actually owned or controlled by the dealer and in actual use by the dealer,
 34 members of the dealer's firm, any salesperson thereof or any person authorized by the dealer. Ve-
 35 hicles operated under dealer plates may be used for the same purposes as are any other vehicles
 36 registered in this state that are registered by payment of the fee under ORS 803.420. This paragraph
 37 is subject to the limitations under ORS 822.045.

38 (B) Nothing in this paragraph allows dealers to use or operate manufactured structures under
 39 dealer plates. All movement of manufactured structures by dealers shall be by trip permits issued
 40 under ORS 803.600 and 820.560.

41 (C) Vehicles registered or titled in another state, country, province, territory or the District of
 42 Columbia are subject to the provisions under ORS 803.300 and 803.305 applicable to such vehicles.

43 (b) A dealer is entitled to receive dealer plates or devices and replacement or additional dealer
 44 plates or devices. As many additional dealer plates as may be desired may be obtained upon the
 45 filing of a formal application for additional plates with the Department of Transportation. The plates

1 issued to dealers shall require the payment of fees as provided under ORS 805.250.

2 (c) The person is not subject to the prohibitions and penalties under ORS 822.005 as long as the
3 holder's vehicle dealer business is conducted in a location approved under the certificate.

4 (d) The dealer shall be considered the owner of vehicles manufactured or dealt in by the dealer,
5 before delivery and sale of the vehicles, and of all vehicles in the dealer's possession and operated
6 or driven by the dealer or the dealer's employees.

7 (2) The holder of a vehicle dealer certificate may open additional places of business under the
8 same business name by obtaining a supplemental certificate from the department under this sub-
9 section. The following all apply to a supplemental certificate issued under this subsection:

10 (a) The department shall not issue a supplemental certificate under this subsection if the addi-
11 tional place of business opened will be operated under a different business name than that indicated
12 on the current certificate. Any business that a vehicle dealer operates under a separate business
13 name must be operated under a separate certificate and the dealer must apply for and pay the fees
14 for a regular dealer certificate for the business.

15 (b) A supplemental certificate issued under this subsection is subject to the fee for supplemental
16 certificate under ORS 822.700.

17 (3) The holder of a vehicle dealer certificate may move a place of business or change a business
18 name by obtaining a corrected certificate from the department. For purposes of this subsection,
19 "place of business" includes a recreational vehicle service facility as defined in ORS 822.082. The
20 following apply to a corrected certificate issued under this subsection:

21 (a) The department shall prescribe the form for application for a corrected certificate.

22 (b) A person applying for a corrected certificate shall pay the fee for the corrected certificate
23 established in ORS 822.700.

24 **(4) The holder of a vehicle dealer certificate may change the classification of the dealer**
25 **certificate by obtaining a corrected certificate from the department. The following apply to**
26 **a corrected certificate issued under this subsection:**

27 **(a) The department shall prescribe the form for application for a corrected certificate.**

28 **(b) A person applying for a corrected certificate shall:**

29 **(A) Designate the classification of the corrected certificate;**

30 **(B) Provide information to substantiate that the business to be conducted falls within the**
31 **requirements of the designated classification; and**

32 **(C) Pay the fee for the corrected certificate established in ORS 822.700.**

33 [(4)] (5) A vehicle dealer certificate is valid for a three-year period and may be renewed as
34 provided by the department. The department shall only renew a certificate if the applicant for re-
35 newal does all of the following:

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

37 (b) Delivers to the department a bond that meets the requirements under ORS 822.030.

38 (c) Delivers to the department a certificate of insurance that meets the requirements under ORS
39 822.033.

40 (d) Provides the names of all partners or corporate officers.

41 (e) Certifies completion of the education requirements of ORS 822.027 (1) if the person is a
42 dealer subject to the education requirements.

43 (f) If the dealer offers new recreational vehicles for sale under the certificate, certifies that the
44 dealer maintains a recreational vehicle service facility as listed in the dealer certificate application
45 described in ORS 822.025.

1 **(g) Certifies compliance with the requirements of the classification of the dealer certifi-**
2 **cate being renewed.**

3 [(5)] **(6)** The department may adopt suitable rules for the issuance and renewal of **vehicle dealer**
4 certificates under this section and ORS 822.020.

5 **SECTION 12.** ORS 822.040, as amended by section 129, chapter 655, Oregon Laws 2003, is
6 amended to read:

7 822.040. (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020
8 may exercise the following privileges under the certificate:

9 (a) A dealer is authorized, without violating ORS 803.025 or 803.300, to use and operate over
10 and along the highways of this state all vehicles displaying the dealer's plates whether registered
11 or not or whether or not a title is issued for the vehicle subject to the following:

12 (A) This paragraph does not authorize dealers to use or operate vehicles under dealer plates
13 unless the vehicles are actually owned or controlled by the dealer and in actual use by the dealer,
14 members of the dealer's firm, any salesperson thereof or any person authorized by the dealer. Ve-
15 hicles operated under dealer plates may be used for the same purposes as are any other vehicles
16 registered in this state that are registered by payment of the fee under ORS 803.420. This paragraph
17 is subject to the limitations under ORS 822.045.

18 (B) Vehicles registered or titled in another state, country, province, territory or the District of
19 Columbia are subject to the provisions under ORS 803.300 and 803.305 applicable to such vehicles.

20 (b) A dealer is entitled to receive dealer plates or devices and replacement or additional dealer
21 plates or devices. As many additional dealer plates as may be desired may be obtained upon the
22 filing of a formal application for additional plates with the Department of Transportation. The plates
23 issued to dealers shall require the payment of fees as provided under ORS 805.250.

24 (c) The person is not subject to the prohibitions and penalties under ORS 822.005 as long as the
25 holder's vehicle dealer business is conducted in a location approved under the certificate.

26 (d) The dealer shall be considered the owner of vehicles manufactured or dealt in by the dealer,
27 before delivery and sale of the vehicles, and of all vehicles in the dealer's possession and operated
28 or driven by the dealer or the dealer's employees.

29 (2) The holder of a vehicle dealer certificate may open additional places of business under the
30 same business name by obtaining a supplemental certificate from the department under this sub-
31 section. The following all apply to a supplemental certificate issued under this subsection:

32 (a) The department shall not issue a supplemental certificate under this subsection if the addi-
33 tional place of business opened will be operated under a different business name than that indicated
34 on the current certificate. Any business that a vehicle dealer operates under a separate business
35 name must be operated under a separate certificate and the dealer must apply for and pay the fees
36 for a regular dealer certificate for the business.

37 (b) A supplemental certificate issued under this subsection is subject to the fee for supplemental
38 certificate under ORS 822.700.

39 (3) The holder of a vehicle dealer certificate may move a place of business or change a business
40 name by obtaining a corrected certificate from the department. For purposes of this subsection,
41 "place of business" includes a recreational vehicle service facility as defined in ORS 822.082. The
42 following apply to a corrected certificate issued under this subsection:

43 (a) The department shall prescribe the form for application for a corrected certificate.

44 (b) A person applying for a corrected certificate shall pay the fee for the corrected certificate
45 established in ORS 822.700.

1 **(4) The holder of a vehicle dealer certificate may change the classification of the dealer**
 2 **certificate by obtaining a corrected certificate from the department. The following apply to**
 3 **a corrected certificate issued under this subsection:**

4 **(a) The department shall prescribe the form for application for a corrected certificate.**

5 **(b) A person applying for a corrected certificate shall:**

6 **(A) Designate the classification of the corrected certificate;**

7 **(B) Provide information to substantiate that the business to be conducted falls within the**
 8 **requirements of the designated classification; and**

9 **(C) Pay the fee for the corrected certificate established in ORS 822.700.**

10 **[(4)] (5) A vehicle dealer certificate is valid for a three-year period and may be renewed as**
 11 **provided by the department. The department shall only renew a certificate if the applicant for re-**
 12 **newal does all of the following:**

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

14 **(b) Delivers to the department a bond that meets the requirements under ORS 822.030.**

15 **(c) Delivers to the department a certificate of insurance that meets the requirements under ORS**
 16 **822.033.**

17 **(d) Provides the names of all partners or corporate officers.**

18 **(e) Certifies completion of the education requirements of ORS 822.027 (1) if the person is a**
 19 **dealer subject to the education requirements.**

20 **(f) If the dealer offers new recreational vehicles for sale under the certificate, certifies that the**
 21 **dealer maintains a recreational vehicle service facility as listed in the dealer certificate application**
 22 **described in ORS 822.025.**

23 **(g) Certifies compliance with the requirements of the classification of the dealer certif-**
 24 **icate being renewed.**

25 **[(5)] (6) The department may adopt suitable rules for the issuance and renewal of vehicle dealer**
 26 **certificates under this section and ORS 822.020.**

27 **SECTION 13. The amendments to ORS 822.040 by sections 11 and 12 of this 2005 Act apply**
 28 **to applications for corrected certificates or renewal of vehicle dealer certificates received by**
 29 **the Department of Transportation on or after the effective date of this 2005 Act.**

30 **SECTION 14. Section 15 of this 2005 Act is added to and made a part of the Oregon Ve-**
 31 **hicle Code.**

32 **SECTION 15. When a vehicle dealer renews a vehicle dealer certificate under ORS**
 33 **822.040, the dealer shall designate a classification of dealer certificate and provide informa-**
 34 **tion to substantiate that the business conducted by the dealer falls within the requirements**
 35 **of the classification if designation and substantiation of classification were not provided when**
 36 **the dealer last applied for a dealer certificate under ORS 822.020 or renewed a dealer certif-**
 37 **icate under ORS 822.040.**

38 **SECTION 16. Section 15 of this 2005 Act applies only to renewals made on or after the**
 39 **effective date of this 2005 Act.**

40 **SECTION 17. ORS 822.045 is amended to read:**

41 **822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the**
 42 **penalties under this section if the vehicle dealer commits any of the following offenses:**

43 **(a) A vehicle dealer commits the offense of failure to obtain a supplemental vehicle dealer cer-**
 44 **tificate if the vehicle dealer opens any additional place of business using the same business name**
 45 **as a place of business approved under a vehicle dealer certificate without first obtaining a supple-**

1 mental dealer certificate under ORS 822.040.

2 (b) A vehicle dealer commits the offense of failure to obtain a corrected vehicle dealer certifi-
3 cate if the dealer moves a place of business or changes the business name without first obtaining
4 a corrected dealer certificate under ORS 822.040.

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

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

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

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

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

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

17 (F) A duly assigned certificate of title or other primary ownership record or a bill of sale from
18 the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer
19 disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate,
20 or if the primary ownership record is in a form other than a document, a dealer shall keep records
21 in accordance with rules adopted by the Department of Transportation for the purpose of complying
22 with this subparagraph.

23 (d) A vehicle dealer commits the offense of failure to allow administrative inspection if the
24 dealer refuses to allow the department to conduct an inspection under ORS 822.035 at any time
25 during normal business hours.

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

29 (f) A vehicle dealer commits the offense of improper dealer movement of a manufactured struc-
30 ture if the dealer moves a manufactured structure on the highways of this state without first ob-
31 taining a trip permit under ORS 803.600 and 820.560.

32 (g) A vehicle dealer commits the offense of illegal use of dealer vehicle for hire if the dealer
33 allows any vehicle operated under vehicle dealer registration to be loaned or rented with or without
34 driver for hire or direct compensation.

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

38 (i) A person commits the offense of improper display of dealer plates if the person operates over
39 and along the highways of this state any unregistered vehicle owned or controlled by the dealer and
40 any dealer plates issued are not displayed in the manner provided in ORS 803.540 for the display
41 of registration plates.

42 (j) A vehicle dealer commits the offense of failure to exhibit the dealer certificate if the dealer
43 fails to permanently exhibit the certificate at the place of business of the person at all times while
44 the certificate is in force.

45 (k) Except as provided in subsection (2) of this section, a vehicle dealer commits the offense of

1 failure to provide clear title if:

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

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

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

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

9 (B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the pur-
10 chasing dealer fails to satisfy the interest of the selling dealer.

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

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

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

21 (m) A vehicle dealer commits the offense of failure to maintain bond or letter of credit coverage
22 if the dealer permits a bond or letter of credit to lapse during the period that the bond or letter of
23 credit is required under ORS 822.020 or 822.040 or if the dealer fails to purchase a bond or letter
24 of credit required by ORS 822.030.

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

30 **(o) A vehicle dealer commits the offense of conducting business outside the classification**
31 **of a vehicle dealer certificate if the dealer conducts business as a vehicle dealer that falls**
32 **outside the classification of a vehicle dealer certificate issued in this state.**

33 (2) A dealer shall not be considered to have committed the offense described in subsection (1)(k)
34 of this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an
35 inventory financing security interest for which the dealer is the debtor.

36 (3) A dealer shall not be considered to have committed the offense described in subsection (1)(L)
37 of this section if the dealer demonstrates that:

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

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

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

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

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

45 (c) The offense described in this section, failure to maintain proper vehicle dealer records, is a

1 Class A misdemeanor.

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

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

6 (f) The offense described in this section, improper dealer movement of a manufactured structure,
7 is a Class B traffic violation.

8 (g) The offense described in this section, illegal use of dealer vehicle for hire, is a Class B traffic
9 violation.

10 (h) The offense described in this section, improper use of dealer plates or devices, is a Class D
11 traffic violation.

12 (i) The offense described in this section, improper display of dealer plates, is a Class B traffic
13 violation.

14 (j) The offense described in this section, failure to exhibit the dealer certificate, is a Class A
15 misdemeanor.

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

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

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

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

23 **(o) The offense described in this section, conducting business outside the classification**
24 **of a vehicle dealer certificate, is a Class A misdemeanor.**

25 **SECTION 18.** ORS 822.045, as amended by section 131, chapter 655, Oregon Laws 2003, is
26 amended to read:

27 822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the
28 penalties under this section if the vehicle dealer commits any of the following offenses:

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

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

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

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

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

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

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

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

3 (F) A duly assigned certificate of title or other primary ownership record or a bill of sale from
4 the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer
5 disposes of the vehicle or camper. If title is issued for the vehicle in a form other than a certificate,
6 or if the primary ownership record is in a form other than a document, a dealer shall keep records
7 in accordance with rules adopted by the Department of Transportation for the purpose of complying
8 with this subparagraph.

9 (d) A vehicle dealer commits the offense of failure to allow administrative inspection if the
10 dealer refuses to allow the department to conduct an inspection under ORS 822.035 at any time
11 during normal business hours.

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

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

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

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

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

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

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

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

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

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

37 (B) Within 15 days of receiving clear title to a vehicle or camper from another dealer, the pur-
38 chasing dealer fails to satisfy the interest of the selling dealer.

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

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

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

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

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

13 **(n) A vehicle dealer commits the offense of conducting business outside the classification**
14 **of a vehicle dealer certificate if the dealer conducts business as a vehicle dealer that falls**
15 **outside the classification of a vehicle dealer certificate issued in this state.**

16 (2) A dealer shall not be considered to have committed the offense described in subsection (1)(j)
17 of this section if the dealer fails to satisfy an interest in a vehicle or camper that arises from an
18 inventory financing security interest for which the dealer is the debtor.

19 (3) A dealer shall not be considered to have committed the offense described in subsection (1)(k)
20 of this section if the dealer demonstrates that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (L) The offense described in this section, failure to maintain bond or letter of credit coverage,

1 is a Class A misdemeanor.

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

4 **(n) The offense described in this section, conducting business outside the classification**
5 **of a vehicle dealer certificate, is a Class A misdemeanor.**

6 **SECTION 19.** ORS 822.050 is amended to read:

7 822.050. (1) The Department of Transportation may revoke, suspend or place on probation a ve-
8 hicle dealer if the department determines at any time for due cause that the dealer has done any
9 of the following:

10 (a) Violated any grounds for revocation, suspension or probation adopted by the department by
11 rule under ORS 822.035.

12 (b) Failed to comply with the requirements of the vehicle code with reference to notices or re-
13 ports of the transfer of vehicles or campers.

14 (c) Moved a manufactured structure or caused a manufactured structure to be moved without
15 complying with the requirements for trip permits under ORS 820.560.

16 (d) Caused or suffered or is permitting the unlawful use of any certificate or registration plates.

17 (e) Violated or caused or permitted to be violated ORS 815.410, 815.415, 815.425 or 815.430.

18 (f) Falsely certified under ORS 822.033 that the dealer is exempt from the requirement under
19 ORS 822.020 or 822.040 to file a certificate of insurance.

20 (g) Continued to fail to provide clear title or repeatedly failed to provide clear title in violation
21 of ORS 822.045.

22 (h) Knowingly certified false information required by the department on an application for a
23 vehicle dealer certificate, supplemental certificate or corrected certificate.

24 **(i) Conducted business outside the classification of a vehicle dealer certificate in violation**
25 **of ORS 822.045.**

26 (2) The department shall cancel a vehicle dealer certificate 45 days after receipt of legal notice
27 that the bond described under ORS 822.030 is canceled, unless the department receives proof from
28 the vehicle dealer that the dealer has obtained another bond. Between the day that the department
29 receives notice that the bond is canceled and the day the vehicle dealer presents proof of another
30 bond, the vehicle dealer may not act as a vehicle dealer.

31 (3) The department shall cancel a vehicle dealer certificate 45 days after receipt of notice that
32 the certificate of insurance required under ORS 822.033 is canceled, unless the department receives
33 proof from the vehicle dealer that the dealer has obtained another certificate of insurance. Between
34 the day that the department receives notice that the certificate of insurance is canceled and the day
35 the vehicle dealer presents proof of another certificate of insurance, the vehicle dealer may not act
36 as a vehicle dealer.

37 (4) The department shall cancel a vehicle dealer certificate immediately upon receipt of notice
38 that zoning approval for the business has been revoked.

39 (5) Upon revocation, cancellation or suspension of a vehicle dealer certificate under this section,
40 the department shall recall and demand the return of the certificate and any vehicle dealer plates
41 issued.

42 **SECTION 20.** ORS 822.050, as amended by section 133, chapter 655, Oregon Laws 2003, is
43 amended to read:

44 822.050. (1) The Department of Transportation may revoke, suspend or place on probation a ve-
45 hicle dealer if the department determines at any time for due cause that the dealer has done any

1 of the following:

2 (a) Violated any grounds for revocation, suspension or probation adopted by the department by
3 rule under ORS 822.035.

4 (b) Failed to comply with the requirements of the vehicle code with reference to notices or re-
5 ports of the transfer of vehicles or campers.

6 (c) Caused or suffered or is permitting the unlawful use of any certificate or registration plates.

7 (d) Violated or caused or permitted to be violated ORS 815.410, 815.415, 815.425 or 815.430.

8 (e) Falsely certified under ORS 822.033 that the dealer is exempt from the requirement under
9 ORS 822.020 or 822.040 to file a certificate of insurance.

10 (f) Continued to fail to provide clear title or repeatedly failed to provide clear title in violation
11 of ORS 822.045.

12 (g) Knowingly certified false information required by the department on an application for a
13 vehicle dealer certificate, supplemental certificate or corrected certificate.

14 **(h) Conducted business outside the classification of a vehicle dealer certificate in vio-**
15 **lation of ORS 822.045.**

16 (2) The department shall cancel a vehicle dealer certificate 45 days after receipt of legal notice
17 that the bond described under ORS 822.030 is canceled, unless the department receives proof from
18 the vehicle dealer that the dealer has obtained another bond. Between the day that the department
19 receives notice that the bond is canceled and the day the vehicle dealer presents proof of another
20 bond, the vehicle dealer may not act as a vehicle dealer.

21 (3) The department shall cancel a vehicle dealer certificate 45 days after receipt of notice that
22 the certificate of insurance required under ORS 822.033 is canceled, unless the department receives
23 proof from the vehicle dealer that the dealer has obtained another certificate of insurance. Between
24 the day that the department receives notice that the certificate of insurance is canceled and the day
25 the vehicle dealer presents proof of another certificate of insurance, the vehicle dealer may not act
26 as a vehicle dealer.

27 (4) The department shall cancel a vehicle dealer certificate immediately upon receipt of notice
28 that zoning approval for the business has been revoked.

29 (5) Upon revocation, cancellation or suspension of a vehicle dealer certificate under this section,
30 the department shall recall and demand the return of the certificate and any vehicle dealer plates
31 issued.

32 **SECTION 21. The amendments to ORS 822.045 and 822.050 by sections 17 to 20 of this 2005**
33 **Act apply to dealer transactions conducted on or after the effective date of this 2005 Act.**

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