

House Bill 3080

Sponsored by Representative MCLAIN (at the request of Carvana)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Department of Transportation to allow vehicle dealers that sold more than 100 vehicles in previous calendar year to electronically transmit certain documents related to vehicle sales.
Provides that vehicle dealer records may be kept electronically.
Authorizes department to issue title to vehicle dealers under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to motor vehicles; amending ORS 803.092, 803.206, 810.480 and 822.045.

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

4 **SECTION 1.** ORS 803.206 is amended to read:

5 803.206. (1) As used in this section, "electronic signature" has the meaning given that term in
6 ORS 84.004.

7 (2) The Department of Transportation may receive electronically transmitted documents neces-
8 sary to:

- 9 (a) Issue or transfer a certificate of title for a vehicle;
10 (b) Register a vehicle or transfer registration of a vehicle;
11 (c) Issue a registration plate; [*or*]
12 (d) Comply with odometer disclosure requirements[.]; **or**
13 **(e) Apply for notation of the security interest on the title.**

14 (3) Except as required in ORS 803.094 and 803.205 for affidavits, an acknowledgement before a
15 notary public is not required when a document or signature is transmitted electronically under this
16 section. When an affidavit is required under ORS 803.094 or 803.205, the department may accept a
17 scanned copy of the person's signature and a scanned copy of the notary public's acknowledgment
18 of the signature, which accurately reproduces the original signatures and contents of the document.

19 (4) The department may adopt rules relating to the electronic transmission of documents and the
20 use of electronic signatures on documents described in subsection (2) of this section.

21 **(5) The department shall adopt rules permitting a vehicle dealer that sold more than 100**
22 **vehicles in the previous calendar year to electronically transmit documents necessary to**
23 **take the actions described in subsection (2) of this section.**

24 **SECTION 2.** ORS 810.480 is amended to read:

25 810.480. (1) A police officer, during normal business hours, may inspect the records, **including**
26 **electronic records**, a vehicle dealer is required to keep under ORS 822.045 and vehicles included
27 in the inventory or located on the premises of a dealer issued a certificate under ORS 822.020. The
28 inspections shall be limited in scope to that necessary to determine compliance with the regulation
29 of dealers under the vehicle code and with vehicle title and registration provisions under the vehicle
30 code and for the purposes of identifying stolen vehicles.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (2) A police officer, at any time, may inspect the books, records and inventory of and premises
 2 used by any business issued a certificate under ORS 822.110 for the purpose of determining whether
 3 the provisions relating to the regulation of dismantlers, rules adopted by the Department of Trans-
 4 portation relating to the regulation of dismantlers and laws relating to licensing, titling and
 5 wrecking of vehicles are being complied with. Every business issued a certificate under ORS 822.110
 6 shall be inspected not less than two times each year.

7 **SECTION 3.** ORS 803.092 is amended to read:

8 803.092. (1) Except as otherwise provided in this section, upon the transfer of any interest in a
 9 vehicle covered by an Oregon title the transferee shall submit an application for title to the De-
 10 partment of Transportation. Such application shall be submitted to the department within 30 days
 11 of the date of transfer of interest.

12 (2) Notwithstanding subsection (1) of this section, application is not required under this section
 13 when:

14 (a) The change involves only a change in the security interest where the security interest holder
 15 or lessor is a financial institution, a financial holding company or a bank holding company, as those
 16 terms are defined in ORS 706.008, a licensee under ORS chapter 725, or any subsidiary or affiliate
 17 of any of the foregoing and the transfer of the interest of the security interest holder or lessor:

18 (A) Results from the merger, conversion, reorganization, consolidation or acquisition of the se-
 19 curity interest holder or lessor;

20 (B) Is to an entity that is a member of the same affiliated group as the security holder or lessor;
 21 or

22 (C) Is made in connection with a transfer in bulk.

23 (b) The vehicle is transferred to a vehicle dealer and the vehicle will become part of the dealer's
 24 inventory for resale. Upon the transfer of a vehicle to a dealer, however, the dealer shall imme-
 25 diately notify the department of such transfer. This exemption from the requirement to apply for
 26 title does not apply if the department determines that application for title is necessary in order to
 27 comply with odometer disclosure requirements. If the department determines that application for
 28 title is not required, it may require filing of documents under ORS 803.126.

29 (c) The vehicle is to be titled in another jurisdiction.

30 (d) The vehicle has been totaled, wrecked, dismantled, disassembled, substantially altered or
 31 destroyed, in which case the provisions of ORS 819.010, 819.012, 819.014 or 822.135 relating to notice
 32 and surrender of title documents shall be complied with.

33 (e) The transfer involves the creation or termination of a leasehold interest in a vehicle that is
 34 proportionally registered under ORS 826.009 or 826.011, if the department is furnished with satis-
 35 factory proof of the lease.

36 (3) Except as provided in subsection (2) of this section, the transferee shall:

37 (a) Submit an application that meets requirements for title under ORS 803.045 and 803.050 and
 38 any applicable rules of the department.

39 (b) Submit the title transfer fees as required under ORS 803.090.

40 (c) Comply with the provisions of ORS 803.065 and any applicable rules of the department under
 41 that statute and submit the duplicate or replacement title fee as provided under ORS 803.090, if the
 42 transfer includes an application for duplicate or replacement title and transfer of title.

43 (d) Submit an odometer disclosure containing information required by the department for the
 44 kind of transaction involved.

45 (e) Submit any late presentation of certificate of title fee as provided under ORS 803.090 if such

1 fee is required under ORS 803.105.

2 **(4) A vehicle dealer that acquires ownership of a vehicle by paying the balance of an**
 3 **outstanding loan, for which the vehicle dealer is unable to obtain a release of security in-**
 4 **terest or certificate of title from the security interest holder due to the holder's failure to**
 5 **comply with ORS 803.105 (1)(i), may apply to the department for a certificate of title in the**
 6 **name of the dealer 20 days after the date of the last payment made to the security interest**
 7 **holder for the vehicle if, at the time of application the vehicle dealer:**

8 **(a) Provides the department proof that any outstanding loan balance is paid; and**

9 **(b) Submits an appropriate odometer disclosure form, unless the vehicle is exempted**
 10 **from odometer disclosure requirements.**

11 **(5) The department shall provide by rule the procedure for obtaining title under sub-**
 12 **section (4) of this section and the proof required.**

13 [(4)] **(6) For purposes of this section:**

14 (a) "Affiliated group" has the meaning given to the term in section 1504(a) of the Internal Re-
 15 venue Code of 1986, as amended (26 U.S.C. 1504(a)).

16 (b) A "transfer in bulk" is:

17 (A) The sale or assignment of, the grant of a security interest in, or any other transfer of either
 18 a group of loans secured by vehicles, leases of vehicles or both or a participation or other interest
 19 in the group of loans;

20 (B) The creation of asset-backed securities or other securing of assets involving the loans or
 21 leases; or

22 (C) Any similar transaction involving the loans or leases.

23 **SECTION 4.** ORS 822.045 is amended to read:

24 822.045. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the
 25 penalties under this section if the vehicle dealer commits any of the following offenses:

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

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

33 (c) A vehicle dealer commits the offense of failure to maintain proper vehicle dealer records if
 34 the dealer does not keep records or books, **whether maintained in paper or electronic form**, with
 35 all of the following information concerning any used or secondhand vehicles or campers the dealer
 36 deals with:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 sub-subparagraph is effective on the date of mailing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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