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PERMANENT ADMINISTRATIVE ORDER

DMV 33-2023

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILED
11/14/2023 4:04 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Vehicle Dealer Certificate Issuance and Renewal – Amendments Under Oregon Laws 2023, Chapter 400

EFFECTIVE DATE: 11/14/2023

AGENCY APPROVED DATE: 11/09/2023

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RULES:

735-022-0065, 735-040-0140, 735-150-0010, 735-150-0015, 735-150-0027, 735-150-0031, 735-150-0039, 735-150-0042, 735-150-0105, 735-150-0110, 735-150-0120, 735-150-0130, 735-150-0160, 735-150-0170

AMEND: 735-022-0065

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. A reference to ORS 822.020 is already in the rule.

CHANGES TO RULE:

735-022-0065

Vehicle Dealer Expedited Title Services ¶¶

This rule establishes the criteria and requirements for expedited titling services as provided under chapter 14 Oregon Laws 2014.¶¶

(1) A vehicle dealer who requests an expedited Oregon title must hold a current valid vehicle dealer certificate issued or renewed under ORS 822.020 ~~or 822.040~~, and be designated as an agent of DMV pursuant to ORS 802.031 and OAR 735-0150-0040. The dealer must submit the following to DMV for each expedite request:¶¶

(a) A completed and signed Application for Oregon title, the appropriate title fee, and any other required documents or fees. The application must have the dealer transaction box checked and in the REMARKS section, include the dealer's certificate number and the word "EXPEDITE";¶¶

(b) The fee established under chapter 14 Oregon Laws 2014 for providing an expedited title. The fee is non-refundable;¶¶

(c) To request to pick up a processed title at the DMV Business Regulation Section in Salem, a written request to pick up the title. The request must contain the phone number, email address and name of the person that DMV will notify when the title is ready for pick up. If no such request is submitted, the title will be sent by U.S. Mail to the person and address specified on the title application.¶¶

(2) Applications for dealer expedited titling services may be:¶¶

(a) Mailed to: OREGON VEHICLE DEALER EXPEDITE TITLE SERVICE, DMV Services, 1905 Lana Avenue NE,

Salem, Oregon 97314; or¶

(b) Hand delivered to DMV Business Regulation Section, 1965 Lana Avenue NE, Salem, Oregon 97314. Drop off times are Monday through Friday, 8 a.m. to 4:30 p.m., except state holidays or a closure due to inclement weather.¶

(3) Upon notification by DMV, a title requested for pick up under subsection (1)(c) of this rule will be available for pick up at DMV Business Regulation Section, 1965 Lana Avenue NE, Salem, Oregon 97314. Pick up times are Monday through Friday, 8 a.m. to 4:30 p.m., except state holidays or a closure due to inclement weather:¶

(a) Only the person whose name is printed on a title, or a third party authorized by that person, may pick up a processed title. An authorized third party must submit a completed and signed Third Party Authorization to Pick up a Dealer Expedite Title (DMV Form 735-7287) at the time of pick up.¶

(b) The person picking up a title must present valid government-issued photo identification at the time of pick up.¶

(4) Expedited titling services under this rule:¶

(a) Are limited to an application for title or replacement title;¶

(b) May be delayed when a title application is missing required information, documents or fees.

Statutory/Other Authority: ~~ORS 184.616~~, 184.619, 802.010, 802.031, 803.053, 803.140, 803.207, 822.043; ~~Ch. 14 OL 2014~~

Statutes/Other Implemented: ~~Ch. 14 OL 2014~~ 803.053

AMEND: 735-040-0140

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. A reference to ORS 822.020 is already in the rule.

CHANGES TO RULE:

735-040-0140

Car Rental Company Vehicle Registration without a Primary Ownership Record

(1) A car rental company that possesses a valid Oregon vehicle dealer certificate, issued or renewed under ORS 822.020 ~~or 822.040~~, may submit an application for vehicle title and registration to an integrator without the vehicle's primary ownership record. The integrator, acting on behalf of the Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV), will issue registration plates, registration stickers and a registration card for the vehicle to the car rental company when the car rental company:

- (a) Submits a completed application for vehicle title and registration;
- (b) Submits all required documentation, except for the primary ownership record;
- (c) Pays all required fees; and
- (d) Certifies that the car rental company:
 - (A) Has not received the primary ownership record for the vehicle as of the date the application is submitted; and
 - (B) Will submit the primary ownership record to DMV within 42 days of the submission of the application.
- (2) DMV will issue a vehicle title to the car rental company for a vehicle that received registration plates, registration stickers and a registration card as provided in section (1) of this rule when the car rental company submits the primary ownership record for the vehicle to DMV. The primary ownership record must show the car rental company as the owner or dealer to which the vehicle was transferred.
- (3) The car rental company must submit the primary ownership record for the vehicle issued registration plates, stickers and a registration card under section (1) of this rule, to DMV within 42 days from the date of the submission of the application to the integrator.
- (4) If DMV does not receive the primary ownership record for the vehicle issued registration plates, stickers and a registration card under section (1) of this rule within 42 days of submission of the application to the integrator, DMV will cancel the registration of the vehicle in accordance with ORS 809.090.

Statutory/Other Authority: ORS 184.619, 802.010, ~~809.090~~, Chapter 348, ~~OL 2019~~3.552, 809.090

Statutes/Other Implemented: ~~Chapter 348~~, ~~OL 2019~~803.552

AMEND: 735-150-0010

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. DMV is not adding a reference to ORS 822.020 because one already exists. DMV also amended the definition of "normal business hours" so the definition aligns with the new wording in ORS 822.035 regarding when DMV may make inspections.

CHANGES TO RULE:

735-150-0010

Definitions ¶¶

As used in this division and ORS Chapter 822:¶¶

- (1) "Additional (or supplemental) place of business" or "additional (or supplemental) location" means a location, other than one exempted under OAR 735-150-0020, that is more than 500 feet from any other business location of the dealer that is operated under the same name as the main business location.¶¶
- (2) "Advertise" means to offer a vehicle for sale or to communicate to the public that a person is acting as a vehicle dealer, by any oral, written, or graphic means including, but not limited to, handbills, the Internet, newspapers, signs, television, billboards, radio, and telephone directories.¶¶
- (3) "Agent" means any dealer possessing a current valid vehicle dealer certificate issued under ORS 822.020, who accepts applications and fees for the titling and registration of vehicles sold by the dealer and who performs such other duties related to the titling and registration of vehicles as DMV authorizes under the rules set forth in division 150.¶¶
- (4) "Applicant" means a person that applies for the issuance or renewal of a vehicle dealer certificate under ORS 822.020, ~~822.040~~ and these division 150 rules.¶¶
- (5) "Broker" has the same meaning as "motor vehicle broker" as defined in ORS 822.047(1).¶¶
- (6) "Brokerage services" has the same meaning as defined in ORS 822.047(1).¶¶
- (7) "Business day" means Monday through Saturday and does not include Sundays or State of Oregon and Federal legal holidays.¶¶
- (8) "Buyer," "purchaser" and "lessee" have the same meaning as "owner" as defined in ORS 801.375.¶¶
- (9) "Cancellation" has the same meaning as "revocation" as defined in section (31) of this rule.¶¶
- (10) "Certified dealer" means a vehicle dealer who holds a vehicle dealer certificate issued or renewed under ORS 822.020 ~~or 822.040~~.¶¶
- (11) "Circumstances beyond the dealer's control," as used in ORS 822.045(3)(b) and OAR 735-150-0050(5) means:¶¶
 - (a) That the dealer could not get the title from any state and the prior security interest holder was paid in full by the dealer; and¶¶
 - (b) The delay was a result of the security interest holder failing to release title; or¶¶
 - (c) DMV may consider the follow mitigating circumstances if those circumstances result in the physical destruction of, or inaccessibility to, vehicle records necessary to prove compliance with ORS 822.045(1) and OAR 735-150-0050(5):¶¶
 - (A) The direct result of clearly-established fraud or other criminal activity against the vehicle dealer, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or the person who actually engaged in the criminal activity. This mitigating circumstance does not apply if the dealer is the perpetrator of the wrongdoing described in this paragraph; or¶¶
 - (B) The direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to vehicle records to prove compliance with ORS 822.045(1) and OAR 735-150-0050(5).¶¶
- (12) "Closure" means a vehicle dealership that no longer has legal authority to conduct dealer-related activity. For example, a dealer's certificate issued under ORS 822.020 is expired, cancelled, suspended or revoked.¶¶
- (13) "Clearly marked" means the notice and dealer contact information required under ORS 822.040(4)(b) and OAR 735-150-0033 is conspicuously posted on the window of each display vehicle, is in plain view of the public and is legible at a distance of six feet or more.¶¶
- (14) "Date of sale," or use of similar terms to indicate the day that the sale occurred, means the date that the purchaser takes possession of the vehicle. This does not apply to vehicles purchased by a dealer at wholesale auction. With respect to auto auctions and for purposes of consignor payment under ORS 822.060(1)(d), "date of sale" means the date upon which the consigning party delivers the necessary title documents to the purchasing dealer.¶¶
- (15) "Dealer" means a person who engages in any of the activities described in ORS 822.005, except those persons

exempted by ORS 822.015.¶

(16) "Dealership," "place of business" or "business location" means a location within the State of Oregon where activities specified in ORS 822.005 take place.¶

(17) "Designated dealer" means a certified dealer who has been authorized to act as an agent of DMV under OAR 735-150-0040.¶

(18) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.¶

(19) "DMV Administrator" means the administrator of the Driver and Motor Vehicles Services Division of the Oregon Department of Transportation.¶

(20) "Employee," for purposes of ORS 822.015 and OAR division 150 means a person over whom a dealer exercises the type of control typically associated with an employer, including but not limited to:¶

(a) Determining the frequency, method and amount of compensation;¶

(b) Determining whether the person's work is continuous or intermittent;¶

(c) Determining the hours or frequency of a person's work; or¶

(d) Retaining the ability to terminate the relationship.¶

(21) "Good faith effort" as used in ORS 822.045(3) means action satisfactory to DMV that a vehicle dealer complied with the requirements set forth in OAR 735-150-0050(1) and (2).¶

(a) DMV will determine that the dealer's efforts are in good faith if written documentation is provided that verifies:¶

(A) Action(s) was taken by the dealer within ten (10) days of sale to resolve problems with providing transfer of ownership; and¶

(B) The dealer provided complete and timely information to the customer concerning any problems encountered and actions being taken to resolve them.¶

(b) DMV will not accept a good faith effort by a dealer if, before the sale of the vehicle, the dealer knows or reasonably should know that title transfer could not be completed within 30 days.¶

(22) "Licensed dealer" as used in ORS 822.015, 822.045 and division 150 means a person who is currently licensed as a vehicle dealer in another jurisdiction.¶

(23) "Location," "main business location" or "main dealership" means a location identified and listed as the dealer's main business location on the most current application for vehicle dealer certificate.¶

(24) "Normal business hours" means:¶

(a) With respect to vehicle dealer's normal business hours, all times during which a dealer engages in any of the activities described in ORS 822.005, except as exempted by ORS 822.015; or¶

(b) With respect to DMV's normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m.¶

(25) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation or any other legal or commercial entity.¶

(26) "Permanent revocation" means to permanently revoke a vehicle dealer certificate and the right to apply for a vehicle dealer certificate.¶

(27) "Probation" means a period of time specified by DMV during which a vehicle dealer may continue to operate, but only under the terms or conditions established by DMV.¶

(28)-"Principal" means any owner, partner of a partnership, corporate officer, proprietor of a sole proprietorship, LLC member, or other person who controls the business entity.¶

(29) "Purchaser" has the same meaning as buyer or lessee.¶

(30) "Rebuilder" means a person engaged in conducting a "vehicle rebuilding business" as specified in ORS 822.070.¶

(31) "Revocation" means to void and terminate a vehicle dealer certificate. Unless permanently revoked, DMV will specify the period of time before the person subject to the revocation may apply for a new vehicle dealer certificate.¶

(32) "Sanction" means an action taken against a vehicle dealer by DMV in cases of non-compliance, fraud, misuse or abuse of privileges granted by a vehicle dealer certificate pursuant to a violation of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers or the operation of a vehicle dealership.¶

(33) "Suspension" means a period of time specified by DMV during which a vehicle dealer is prohibited from:¶

(a) Buying, selling, trading, exchanging any vehicle or providing brokerage services. This includes, but is not limited to, providing information about price, quality, availability, payment terms, or any other information specific to the sale of a vehicle; and¶

(b) Acting as DMV's agent.¶

(34) "Violation" means any violation by a person or vehicle dealer of the Oregon Vehicle Code or any rules adopted by DMV in accordance with ORS 822.009(1) and (2).¶

(35) "Warning" means a documented oral warning to the principal of a dealership or a written correction notice issued to the principal, or an employee of the dealership.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.035

Statutes/Other Implemented: ORS 822.005 - 822.080

AMEND: 735-150-0015

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended a reference to renewal of dealer certificates. Previously the reference was ORS 822.040 and now it points to 822.020.

CHANGES TO RULE:

735-150-0015

Dealer Applications ¶

(1) An applicant for a vehicle dealer certificate under ORS 822.020 must submit the following to the DMV Business Regulation Section:¶

(a) A completed and signed DMV Application for Three Year Vehicle Dealer Certificate (DMV Form 735-370);¶

(b) A completed and signed DMV Surety Bond (DMV Form 735-370B);¶

(c) A completed and signed DMV Certificate of Insurance form or DMV Liability Insurance Certification of Exemption (DMV Form 735-7024);¶

(d) A valid government-issued photo identification for each principal;¶

(e) All applicable fees; and¶

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:¶

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1)(a); or¶

(B) A completed and signed DMV Education Requirements Certification of Exemption (DMV Form 735-370C), if an applicant is exempt from the education and test requirements under ORS 822.027(2).¶

(2) An applicant for a renewal of vehicle dealer certificate under ORS 822.0420 must submit the following to the DMV Business Regulation Section:¶

(a) A completed and signed DMV Application for Three Year Vehicle Dealer Certificate (DMV Form 735-370);¶

(b) A completed and signed DMV Surety Bond form (DMV Form 735-370B), if the applicant is submitting a new bond, or proof acceptable to DMV that a valid surety bond is in effect at the time of renewal. Proof includes, but is not limited to a notation on DMV records or other evidence acceptable to DMV that the required bond is in effect.¶

(c) A completed and signed DMV Certificate of Insurance form or DMV Liability Insurance Certification of Exemption (DMV Form 735-7024);¶

(d) A valid government-issued photo identification for each principal;¶

(e) All applicable fees; and¶

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:¶

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1)(b); or¶

(B) A completed and signed DMV Education Requirements Certification of Exemption (DMV Form 735-370C), if an applicant is exempt from the education and test requirements under ORS 822.027(3).¶

(3) In addition to the requirements of sections (1) and (2) of this rule, the applicant must submit a completed and signed DMV Supplemental Dealer/Rebuilder Vehicle Dealer Certificate Application (DMV Form 735-372) for each additional business location other than the dealer's primary business location.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 802.012, 822.020, 822.025, 822.027, 822.040

Statutes/Other Implemented: ORS 802.012, 822.020, 822.025, 822.027, 822.040, 822.050

AMEND: 735-150-0027

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended a reference to renewal of dealer certificates. Previously the reference was ORS 822.040 and now it points to 822.020.

CHANGES TO RULE:

735-150-0027

Refusal to Issue or Renew Vehicle Dealer Certificate ¶¶

- (1) DMV will not issue or renew a vehicle dealer certificate to an applicant who submits an application that is incomplete or contains false information.¶¶
- (2) DMV will not issue or renew a vehicle dealer certificate to an applicant when it determines a principal of the applicant dealer is financially or operationally involved with any dealership whose certificate or right to apply for a certificate is currently suspended, canceled or revoked. Additionally, DMV will not issue an original or renewal vehicle dealer certificate to any applicant when it determines a principal of the applicant dealer was within one (1) year of the date of the application financially or operationally involved with any dealership whose certificate or right to apply for a certificate is currently suspended, canceled or revoked.¶¶
- (3) DMV will issue or renew a vehicle dealer certificate on a probationary basis when it determines a principal of the applicant dealer is financially or operationally involved with any other dealer whose certificate or right to apply for a certificate is currently on probation. The probationary status of the new certificate will expire and attain regular status on the same date the probation period ends for the other dealership.¶¶
- (4) As provided in ORS 822.035(8) and (9), DMV will not issue a vehicle dealer certificate under 822.020 to an applicant who has been issued a similar certificate from another jurisdiction that has been revoked or is currently suspended unless the applicant possesses a current, valid vehicle dealer certificate issued under 822.020. Nothing in this section precludes a vehicle dealer who holds a current, valid vehicle dealer certificate issued under 822.020 from obtaining or renewing a vehicle dealer certificate under 822.020 or a supplemental certificate under ~~822.040 or to renew a certificate under 822.040.~~¶¶
- (5) DMV will not issue an original or renewal vehicle dealer certificate until such time as it is satisfied the applicant meets all requirements for issuance of a certificate found in ORS Chapter 822 and OAR chapter 735, division 150.¶¶
- (6) DMV will not issue or renew a vehicle dealer certificate to an applicant whose business name is identical to or indistinguishable from an existing dealer name. DMV may consider geographic location and other factors at its discretion when determining the ability to distinguish between two similarly named dealerships.¶¶
- (7) When DMV refuses to issue a vehicle dealer certificate, DMV will retain the fees submitted with the application to cover the cost of processing the application.¶¶
- (8) An applicant who has been refused issuance of a vehicle dealer certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.¶¶
- (9) The refused applicant's request for a hearing must be submitted in writing to and received by DMV within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate, pending the outcome of the hearing. In the case of a refusal to renew, the dealer may continue to operate under the old certificate in accordance with ORS 183.430(1), pending the outcome of the hearing, except when the agency finds that such continued operation would constitute a serious danger to the public health or safety and extends the hearing request period to 90 days in accordance with ORS 183.430(2).
Statutory/Other Authority: ~~ORS 184.616~~, 184.619, 802.010, 822.035, 822.050
Statutes/Other Implemented: ORS 822.050

AMEND: 735-150-0031

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. A reference to ORS 822.020 is already in the rule.

CHANGES TO RULE:

735-150-0031

Proof of Dealer Liability Insurance ¶¶

(1) A dealer must maintain the insurance coverage required by ORS 822.033 during the period that insurance is required under ORS 822.020 ~~or 822.040.~~¶

(2) Unless exempt under ORS 822.033, a dealer must maintain proof of a current, valid insurance policy that provides the insurance coverage required by ORS 822.033.¶

(3) Upon request by DMV, a dealer must provide to DMV proof of insurance required by subsection (1).

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.035

Statutes/Other Implemented: ORS 822.033, 822.035

AMEND: 735-150-0039

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. A reference to ORS 822.020 is already in the rule.

CHANGES TO RULE:

735-150-0039

Qualifications for Designation of Dealer as Agent ¶¶

A dealer who possesses a valid Oregon vehicle dealer certificate issued pursuant to ~~ORS 822.020~~ or renewed pursuant to ORS 822.0420 must meet the qualifications in section (1) through (3) of this rule in order to be appointed and to continue to act as DMV's agent and to perform the duties permitted by OAR 735-150-0040(4):¶¶

- (1) A dealer, including any principal if a corporation, partner if a partnership, or member if an LLC, must not:¶¶
- (a) Be currently suspended as a vehicle dealer in Oregon;¶¶
 - (b) Have been convicted of any felony, including a conviction based on a plea of nolo contendere, in any jurisdiction within the prior 10 years;¶¶
 - (c) Have been convicted of any misdemeanor, including a conviction based on a plea of nolo contendere, in connection with selling or otherwise dealing in motor vehicles, or for fraud, identity theft, misrepresentation, forgery or conversion, in any jurisdiction within the prior 10 years;¶¶
 - (d) Have been found to have committed a violation of Oregon Vehicle Code, state or federal law, rule, or regulation related to fraud, misrepresentation, forgery or conversion within the prior 10 years; or¶¶
 - (e) Have been found liable in a civil action in which a judgment is issued for committing any act of fraud, conversion or misrepresentation within the prior 10 years.¶¶
- (2) A dealer must remain in continued compliance with the provisions of ORS 822.025(3) and (5).¶¶
- (3) A dealer, including any principal if a corporation, partner if a partnership, or member if an LLC, must not issue DMV a dishonored check or other form of non-negotiable payment.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 802.031, 822.035, 822.042

Statutes/Other Implemented: ORS 822.020, 822.025, 822.035, 822.040, 822.042, 822.045

AMEND: 735-150-0042

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. A reference to ORS 822.020 is already in the rule.

CHANGES TO RULE:

735-150-0042

Vehicle Consignments ¶

For purposes of ORS 822.015 and 822.060, only a certified dealer who holds a vehicle dealer certificate issued or renewed under ORS 822.020 ~~or 822.040~~ may take and sell vehicles on consignment from other jurisdictions.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.015, 822.060, ~~2009 OL Ch. 551~~ 822.094

Statutes/Other Implemented: ORS 822.015, 822.060, ~~2009 OL Ch. 551~~ 822.094

AMEND: 735-150-0105

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to update references to statutory/other authority and statutes/other implemented sections.

CHANGES TO RULE:

735-150-0105

Late Renewal of Dealer Certificate ¶¶

(1) An application to renew a dealer certificate will not be considered late if the dealer submits an application for renewal within 15 days of the date that the previous certificate expired, and the application is submitted with all applicable fees and a surety bond in effect during that 15-day period.¶¶

(2) An application to renew a dealer certificate is late, and subject to the late payment charge under ORS 822.700(6), if the dealer submits:¶¶

(a) An application not later than 45 days after the previous certificate expired and the application is submitted with all applicable fees; and¶¶

(b) A surety bond in effect during that 45-day period.¶¶

(3) A dealer who continues business operations 45 days after their certificate has expired is in violation of ORS 822.005 and is subject to civil penalties under OAR 735-150-0170.¶¶

(4) Except for the late payment fee under ORS 822.700, DMV may waive or reduce a penalty described under this rule if the dealer provides DMV with written documentation that shows mitigating circumstances prevented the dealer from renewing their certificate on time. Mitigating circumstances DMV may consider include:¶¶

(a) The dealer took action to renew the certificate on a date reasonably calculated to complete the process in a timely manner; and¶¶

(b) The delay in renewal was due to circumstances beyond the dealer's ability to control.

Statutory/Other Authority: ORS 183.430, 184.619, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080, 822.005 - 822.080, ~~2013 OL Ch. 372~~822.700

Statutes/Other Implemented: ORS 822.0420, ~~2013 OL Ch. 372~~822.700

AMEND: 735-150-0110

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to remove a reference to ORS 822.040. A reference to ORS 822.020 is already in the rule.

CHANGES TO RULE:

735-150-0110

Dealer Offenses Subject to Civil Penalty or Sanction ¶¶

In addition to any other penalties provided by law, a dealer will be subject to the civil penalties or sanctions in OAR 735-150-0120 to 735-150-0140 if the dealer:¶¶

- (1) Allows or assists a person who is not an employee of the dealer to imply or represent an affiliation with the vehicle dealership in order to engage in any activity pursuant to ORS 822.005.¶¶
- (2) Fails to submit all taxes or fees due this state or another jurisdiction in connection with the sale or transfer of a vehicle.¶¶
- (3) Signs a name or allows any other person to sign a name of the owner, security interest holder, or lessor on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title without first obtaining a properly signed Power of Attorney. This section does not apply to a dealer who as an owner, security interest holder or lessor signs their own name on a certificate of title, salvage title or any motor vehicle document used by DMV in the transfer of title.¶¶
- (4) Purchases, sells, disposes of or has in the dealer's possession, any vehicle that the dealer knows or with reasonable diligence should have known has been stolen or appropriated without the consent of the owner.¶¶
- (5) Fails to comply with state or federal laws, rules or regulations pertaining to the construction or safety of motor homes, trailers or campers.¶¶
- (6) Buys, sells, receives, disposes of, conceals or has in the dealer's possession any vehicle or component from which an identification number has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle.¶¶
- (7) Violates any provision of state or federal law, rule or regulation concerning odometer tampering, repair, readings or notices.¶¶
- (8) Prints or produces or causes to be printed or produced any certificate of title or certificate of registration without authority, or holds or uses any such certificate or assignment knowing that it has been printed or purchased without authority.¶¶
- (9) Commits any offense specified in ORS 822.045.¶¶
- (10) Acts as a vehicle dealer anytime between the day DMV receives notice of cancellation of bond or insurance and the day the vehicle dealer presents proof to DMV of another bond or certificate of insurance.¶¶
- (11) Issues a temporary registration permit to a person not domiciled in Oregon or who is otherwise not subject to or eligible for Oregon registration.¶¶
- (12) Fails to notify DMV on a form or in a format approved by DMV within seven (7) calendar days of receipt of a vehicle in inventory, that a vehicle has been transferred to the dealer.¶¶
- (13) Fails to immediately remove registration plates from vehicles registered in other jurisdictions that are in the dealer's inventory. The dealer may retain the plates until the vehicle is sold.¶¶
- (14) Fails to destroy registration plates removed from vehicles registered in other jurisdictions at the time of sale if the vehicle is to be titled in Oregon or in a jurisdiction other than that in which the vehicle was previously registered. If the vehicle will be re-registered in the former jurisdiction, the plates may be placed back on the vehicle following the sale.¶¶
- (15) Completes or allows an employee to complete a DMV Vehicle Identification Number (VIN) Inspection form without physically inspecting the vehicle for its vehicle identification number.¶¶
- (16) Sells a vehicle of a type not authorized by the dealer's certificate.¶¶
- (17) Fails to comply with any provision of ORS 822.060 through 822.065 concerning consignment sales.¶¶
- (18) Fails to comply with any provision of ORS 822.040(4) or OAR 735-150-0033 concerning the display of a vehicle at a location other than the dealer's place of business for the purpose of advertising.¶¶
- (19) Provides brokerage services and fails:¶¶
 - (a) To provide the written disclosure described in ORS 822.047(2);¶¶
 - (b) To provide the written statement described in ORS 822.047(3); or¶¶
 - (c) To comply with the requirements for broker fees described in ORS 822.047(4).¶¶
- (20) Knowingly makes a false statement of material fact in:¶¶
 - (a) An application for a dealer certificate, a dealer certificate renewal or attachments thereof;¶¶

- (b) An application to Correct Dealer/Rebuilder Vehicle Dealer Certificate (DMV Form 735-371);¶
 - (c) Any investigation by DMV or law enforcement; or¶
 - (d) Any DMV document.¶
 - (21) Commits a felony by violating ORS 822.605.¶
 - (22) Fails to maintain records described in OAR 735-150-0050(5) or fails to make those records available to DMV, law enforcement personnel or investigators of the Oregon Department of Justice upon their request.¶
 - (23) Fails to comply with the requirements of the Oregon Vehicle Code with reference to notices or reports of the transfer of vehicles or campers.¶
 - (24) Allows or permits the unlawful use of any certificate or registration plate.¶
 - (25) Falsely certifies under ORS 822.033 that the dealer is exempt from filing a certificate of insurance as required by ORS 822.020 or 822.040.¶
 - (26) Fails to maintain the insurance coverage described in OAR 735-150-0031(1).¶
 - (27) Fails to pay a civil penalty assessed by DMV.
- Statutory/Other Authority: ORS 184.619, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080, 822.035
Statutes/Other Implemented: ORS 822.005 - 822.080

AMEND: 735-150-0120

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to change the number of years DMV may suspend a vehicle dealer certificate and the right of the principal(s) to renew the certificate or apply for a new certificate for failure to comply with OAR 735-0150-0110(27) from three years to six years.

CHANGES TO RULE:

735-150-0120

Sanctions ¶¶

(1) DMV may impose sanctions when it determines that a dealer has violated any provision of the Oregon Vehicle Code or rules adopted by DMV relating to:¶¶

(a) The operation of a vehicle dealership;¶¶

(b) Providing brokerage services; or¶¶

(c) Vehicle title and registration.¶¶

(2) Sanctions imposed may be against any or all of the following:¶¶

(a) A vehicle dealer's certificate;¶¶

(b) A dealer's status as DMV's agent; or¶¶

(c) An owner, partner, corporate officer or other principal of the dealership.¶¶

(3) Factors DMV may consider in determining the sanctions to impose include:¶¶

(a) The severity of a violation or its impact on the public;¶¶

(b) The number of similar or related violations;¶¶

(c) Whether a violation was willful or intentional;¶¶

(d) The history of all sanctions, civil penalties and oral or written warnings issued or imposed by DMV against the dealer or principals of the dealership.¶¶

(4) If DMV determines that a sanction is warranted, the type of sanction imposed may include one or more of the following:¶¶

(a) Probation under conditions set by DMV pertaining to the dealer's authority to act as an agent of DMV for up to one (1) year;¶¶

(b) Suspension of the dealer's authority to act as an agent of DMV for up to one (1) year;¶¶

(c) Permanent revocation of the dealer's authority to act as an agent of DMV;¶¶

(d) Probation under conditions set by DMV, for up to three (3) years;¶¶

(e) Probation of the dealer's authority to use Electronic Vehicle Registration (EVR) under conditions set by DMV, for up to one year.¶¶

(f) Suspension of the dealer's authority to use Electronic Vehicle Registration (EVR) and right to apply as an EVR dealer for up to three years.¶¶

(g) Permanent revocation of the dealer's authority to use Electronic Vehicle Registration (EVR).¶¶

(h) Suspension of the dealer's vehicle dealer certificate and the right to apply for a certificate for up to three (3) years including the right to renew the certificate until the period of suspension has been served;¶¶

(i) Permanent revocation of the dealer's vehicle dealer certificate;¶¶

(j) Cancellation of the dealer's vehicle dealer certificate;¶¶

(k) Suspension of the right of a principal of a dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name for up to three (3) years;¶¶

(L) Permanent revocation of the right of a principal of a dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name;¶¶

(m) Immediate suspension as provided in ORS 183.430(2).¶¶

(n) For failure to comply with OAR 735-150-0110(27), concerning failure to pay a penalty assessed by DMV:¶¶

(A) Suspension of the dealer's vehicle dealer certificate and the right to apply for a certificate for a maximum of ~~three~~six (3~~6~~) years including the right to renew the certificate or until the civil penalty is paid in full; and¶¶

(B) Suspension of the right of a principal of a vehicle dealership to apply for a vehicle dealer certificate for a different vehicle-related business or in a different business name for a maximum of ~~three~~six (3~~6~~) years or until the civil penalty is paid in full.¶¶

(5) A dealer or principal whose vehicle dealer certificate or privileges have been placed on probation, suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.¶¶

(6) Except as provided for in sections (7) and (8) of this rule, a dealer's request for a hearing must be submitted in writing to, and received by DMV within 20 days of the date of the notice of penalty. A hearing request received in

a timely manner will result in a withdrawal of the penalty, pending the outcome of the hearing.¶

(7) In the instance of an immediate suspension as provided by, ORS 183.430(2) a dealer's request for a hearing must be submitted in writing to, and received by DMV within 90 days of the date of notice of suspension. A hearing request received in a timely manner will not result in a withdrawal of the suspension, pending the outcome of the hearing.¶

(8) In the instance of cancellation as provided by ORS 822.050(2) or (3) for failure to satisfy the bond or insurance requirements established by 822.030 and 822.033, a dealer's request for a hearing must be submitted in writing to, and received by DMV within 90 days of the date of the notice of cancellation. A hearing request received in a timely manner will not result in a withdrawal of cancellation, pending the outcome of the hearing.¶

(9) When a timely request for a hearing is not received, the dealer will have defaulted, waived the right to a hearing and DMV's file will then constitute the record of the case.

Statutory/Other Authority: ORS 183.430, 184.619, 802.010, 802.370, 803.600, 803.625, 821.060, 821.080, 822.005 - 822.080

Statutes/Other Implemented: ORS 822.050

AMEND: 735-150-0130

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to add information about when DMV will refuse to issue a dealer certificate or renewal certificate under ORS 822.020 if a final order was issued by DMV assessing civil penalties within the six years immediately preceding the date of certificate issuance and the civil penalties have not been paid.

CHANGES TO RULE:

735-150-0130

Civil Penalty Consideration; Certified Vehicle Dealers ¶¶

(1) A dealer, who violates any provision of the Oregon Vehicle Code or any rule adopted by DMV relating to vehicle dealers, the operation of a vehicle dealership, providing brokerage services or vehicle title and registration, may incur, in addition to any other penalty or sanction provided by law, a civil penalty in an amount of not more than \$1,000 for each violation.¶¶

(2) DMV will assess a penalty amount determined by DMV to be appropriate for the particular violation. In determining an appropriate penalty amount, DMV may use the schedule set forth in OAR 735-150-0140 as a guideline and may consider the following:¶¶

(a) The severity of the violation or its impact on the public;¶¶

(b) The number of similar or related violations;¶¶

(c) Whether a violation was willful or intentional;¶¶

(d) The prior history of all civil penalties and sanctions imposed by DMV against the dealer or principals of the dealership;¶¶

(e) The number of violations compared to the volume of transactions at the dealership; or¶¶

(f) Other circumstances determined by DMV to be applicable to the particular violation.¶¶

(3) If DMV and a dealer enter into settlement discussions, DMV may review the criteria in section (2) of this rule and do any or all of the following:¶¶

(a) Impose a sanction as provided in OAR 735-150-0120;¶¶

(b) Waive or modify the civil penalty amount; or¶¶

(c) Require that the dealer attend specialized training.¶¶

(4) DMV will refuse to issue a dealer certificate or renewal certificate under ORS 822.020 if a civil penalty imposed under a final order issued by DMV has not been paid, or if the dealer is in default on an active civil penalty payment plan. This section applies to civil penalties that were assessed within the six years immediately preceding the date of an application for a dealer certificate or renewal certificate.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.035

Statutes/Other Implemented: ORS 183.430, 822.009, 822.045, 822.050

AMEND: 735-150-0160

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to add information about when DMV will refuse to issue a dealer certificate or renewal certificate under ORS 822.020 if a final order was issued by DMV assessing civil penalties within the six years immediately preceding the date of certificate issuance and the civil penalties have not been paid.

CHANGES TO RULE:

735-150-0160

Civil Penalty Considerations; Acting as a Dealer Without a Certificate ¶¶

Any person not issued a vehicle dealer certificate under ORS 822.020, who violates ORS 822.005(1) or any DMV rule relating to the sale of vehicles, will incur, in addition to any other penalty provided by law, a civil penalty not to exceed \$5,000 for each vehicle:¶¶

(1) DMV will assess penalties in accordance with the schedule set forth in OAR 735-150-0170.¶¶

(2) DMV may evaluate the appropriateness of the amount of a civil penalty assessed in individual cases during settlement discussions and may agree to payment of an amount other than originally assessed. In making such an evaluation, DMV may consider:¶¶

(a) The severity of the violation or its impact on the public;¶¶

(b) The number of similar or related violations;¶¶

(c) Whether the violations were willful or intentional; and¶¶

(d) Any other consideration DMV deems appropriate.¶¶

(3) DMV will refuse to issue a dealer certificate or renewal certificate under ORS 822.020 if a civil penalty imposed under a final order issued by DMV has not been paid, or if the dealer is in default on an active civil penalty payment plan. This section applies to civil penalties that were assessed within the six years immediately preceding the date of an application for a dealer certificate or renewal certificate.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010

Statutes/Other Implemented: ORS 822.005, 822.009

AMEND: 735-150-0170

NOTICE FILED DATE: 09/28/2023

RULE SUMMARY: DMV amended this rule to add information about when DMV will refuse to issue a dealer certificate or renewal certificate under ORS 822.020 if a final order was issued by DMV assessing civil penalties within the six years immediately preceding the date of certificate issuance and the civil penalties have not been paid.

CHANGES TO RULE:

735-150-0170

Schedule of Violation Penalties, Unlicensed Dealer ¶¶

(1) In addition to any other penalty provided by law, the following civil penalty schedule applies to persons acting as a vehicle dealer without a current dealer certificate, including a dealer who sells a vehicle while the dealer's certificate is expired, suspended, cancelled, or revoked.¶¶

(2) This schedule does not apply to a person or dealer exempt from dealer certification requirements pursuant to ORS 822.015.¶¶

(3) Civil penalties under this schedule are assessed as follows:¶¶

(a) For the first offense: \$2,500 per vehicle;¶¶

(b) For the second and subsequent offenses: \$5,000 per vehicle.¶¶

(4) DMV may reduce a civil penalty assessed under subsection (3)(a) of this rule if:¶¶

(a) The person or dealer files with DMV a completed dealer application that meets Oregon requirements for licensure within 30 days of the date of notice of imposition of civil penalty for acting as an unlicensed dealer; or¶¶

(b) A hearing is requested and held in accordance with ORS Chapter 183, and within 30 days of issuance of a final order upholding the penalty, the person files with DMV a completed dealer application that meets Oregon requirements for licensure.¶¶

(5) In addition to any other outstanding requirements, DMV will refuse to issue a dealer certificate or renewal certificate under ORS 822.020 if a civil penalty imposed under a final order issued by DMV has not been paid, or if the dealer is in default on an active civil penalty payment plan. This section applies to civil penalties that were assessed within the six years immediately preceding the date of an application for a dealer certificate or renewal certificate.

Statutory/Other Authority: ORS 184.616~~9~~, ~~184.619~~802.010, 822.020

Statutes/Other Implemented: ORS 822.009,~~822.009~~