

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division		735	
Agency and Division		Administrative Rules Chapter Number	
Lauri Kunze	355 Capitol St. NE, Rm. 29, Salem OR 97301	lauri.g.kunze@odot.state.or.us	(503) 986-3171
Rules Coordinator	Address		Telephone

**RULE CAPTION**

Implements chapter 551, Oregon Laws 2009, relating to Vehicle Dealer Consignment Practices and Dealer-Only Auctions.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

November 23, 2009	1:00 pm	Transportation Building, Room 122 355 Capitol Street NE, Salem OR	David Eyerly
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**ADOPT:** 735-150-0042 and 735-150-0047

**AMEND:** 735-150-0010, 735-150-0020, 735-150-0110

**REPEAL:**

ORS 184.616, 184.619, 802.010, 803.600, 803.625, 821.060, 821.080, 822.015, 822.035, 822.040, 822.060  
and 2009 Or. Laws, Ch. 551

Stat. Auth.

ORS 822.005 - 822.080 and 2009 Or. Laws, Ch. 551

Stats. Implemented

None

Other Authority

**RULE SUMMARY**

This rulemaking is needed to implement legislation enacted by the 2009 Legislative Assembly:

In part, chapter 551, Oregon Laws 2009 amends ORS 822.015, to exempt out-of-state licensed vehicle dealers and their authorized representatives from Oregon vehicle dealer certification requirements when participating in a vehicle auction held by a certified Oregon vehicle dealer (dealer-only auction). The legislative act also amends ORS 822.060 to require DMV to adopt rules specifying which persons and which vehicle dealers may take and sell vehicles on consignment from other jurisdictions and to regulate the taking and selling of consigned vehicles.

Pursuant to the legislation, DMV proposes to adopt OAR 735-150-0042 and 735-150-0047, respectively, to: (1) specify who may take and sell vehicles from other jurisdictions; and (2) establish procedures and requirements for out-of-state licensed vehicle dealers and their authorized representatives to participate in a dealer-only auction.

DMV currently has regulatory authority sufficient to meet the requirements specified under amended ORS 822.060. This includes authority to impose sanctions and civil penalties against dealers and unlicensed dealers found in violation of applicable laws and rules. Consequently, additional rulemaking on this matter is not needed at this time.

The proposed amendments of OAR 735-150-0010, 735-150-0020 and 735-150-0110 update terms, citations and definitions consistent with the legislative amendments. Other non-substantive changes are made to simplify rule language.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

**November 23, 2009**

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

Signature

Lauri Kunze

Printed name

Date

\* The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division  
Agency and Division

735  
Administrative Rules Chapter Number

**In the Matter of the** Amendment of OAR 735-150-0010, 735-150-0020, 735-150-0110 and the Adoption of 735-150-0042 and 735-150-0047, Relating to Dealer-Only Vehicle Auctions and Vehicle Dealer Consignment Practices.

**Rule Caption:** Implements chapter 551, Oregon Laws 2009, relating to Vehicle Dealer Consignment Practices and Dealer-Only Auctions.

**Statutory Authority:** ORS 184.616, 184.619, 802.010, 803.600, 803.625, 821.060, 821.080, 822.015, 822.035, 822.040, 822.060 and 2009 Or. Laws, Ch. 551

**Other Authority:** None

**Statutes Implemented:** ORS 822.005 - 822.080 and 2009 Or. Laws, Ch. 551

**Need for the Rule(s):** This rulemaking is needed to implement legislation enacted by the 2009 Legislative Assembly:

In part, chapter 551, Oregon Laws 2009 amends ORS 822.015, to exempt out-of-state licensed vehicle dealers and their authorized representatives from Oregon vehicle dealer certification requirements when participating in a vehicle auction held by a certified Oregon vehicle dealer (dealer-only auction). The legislative act also amends ORS 822.060 to require DMV to adopt rules specifying which persons and which vehicle dealers may take and sell vehicles on consignment from other jurisdictions and to regulate the taking and selling of consigned vehicles.

Pursuant to the legislation, DMV proposes to adopt OAR 735-150-0042 and 735-150-0047, respectively, to: (1) specify who may take and sell vehicles from other jurisdictions; and (2) establish procedures and requirements for out-of-state licensed vehicle dealers and their authorized representatives to participate in a dealer-only auction.

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The proposed amendments of OAR 735-150-0010, 735-150-0020 and 735-150-0110 update terms, citations and definitions consistent with the legislative amendments. Other non-substantive changes are made to simplify rule language.

**Documents Relied Upon and where they are available:** Chapter 551, Oregon Laws 2009 (HB 2564). To request a copy of the document, please contact David Eyerly at 503-945-5243. Alternatively, the document is available electronically at: <http://www.leg.state.or.us/09reg/measpdf/hb2500.dir/hb2564.en.pdf>

**Fiscal and Economic Impact, including Statement of Cost of Compliance:**

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): These rules implement chapter 551, Oregon Laws 2009, which codifies into law clarification of existing practices, procedures and requirements concerning vehicle dealer activity. Therefore, DMV believes this rulemaking has no known fiscal or economic impact on state agencies, units of local government, members of the public or businesses, including small businesses.

2. Cost of compliance effect on small business (ORS 183.336): None, beyond those currently specified under relevant statutes and administrative rules.

**How were small businesses involved in the development of this rule?** In September of 2009, DMV met with individuals representing new car dealers, used car dealers, recreational vehicle dealers, and vehicle auctions that conduct “dealer-only auctions” to provide comments on an early draft of this rulemaking.

**Administrative Rule Advisory Committee consulted?:** Yes. Members of the Oregon Dealer Advisory Committee (ODAC) were provided an opportunity to review and comment on the draft rules and Statement of Need and Fiscal Impact. ODAC functions as an ongoing statutory advisory committee for DMV rules related to vehicle dealers. ODAC includes representatives from vehicle-related businesses, consumer protection groups and members of the public.

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Authorized Signer

Lauri Kunze  
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Printed name

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Date