



Oregon Dealer Advisory Committee Meeting Minutes

April 27, 2017
9:00 AM to Noon
DMV HQ - Rm. 382

Chairperson: Susan Thayer

Members Present:			DMV Representatives Present:
Susan	Thayer	Office Management Rep	<i>Tom McClellan, DMV Administrator Linda Beuckens, Program Services Manager Judith Ingram Moore, Bus. Reg./Fraud Prevention Mgr. Rob McCracken, Investigator Andy Kapileo, Investigator Darlene Watson, Investigator Chuck Hoffman, Business Licensing Lead Becky Ortiz, Bus. Reg/Fraud Prevention Analyst</i>
Roger	Kirschner	RV Representative	
Dale	Geiger	DOJ Representative	
Mary Ann	Trout	Dismantler Representative	
Dennis	Keena	General Public Representative	Members Absent:
Shannon	Nil	New Dealer Representative	<i>Jeff Helget – Dismantler Representative Alex Fraser – Auction Representative</i>
Gary	Sargent	Power Sports Representative	Guests:
Mike	Wagner	Tow Representative	<i>Michael Thornicroft – Oregon Government Ethics Commission Teri Medina – VITU/EVR Jennifer Mueller – VITU/EVR Amy Joyce – ODOT Government Relations Stephanie Zellner – DMV Vehicle Programs Manager</i>
Robert	Lanphere Jr	New Dealer Representative	
Dan	Nicholson	Used Dealer Representative	
Scott	Short	Used Dealer Representative	
Industry Association Representatives Present			
<i>Diane</i>	<i>Sparks</i>	<i>OIADA</i>	
<i>Monty</i>	<i>King</i>	<i>OVDA</i>	
<i>BJ</i>	<i>Clark</i>	<i>Dealer Net Solutions</i>	
<i>Darrell</i>	<i>Fuller</i>	<i>NATA/OVDA</i>	

Call to Order /Roll Call

Susan/Chuck

Susan Thayer called the ODAC meeting to order. Chuck took the roll call. 11 members were present to make a quorum.

Mike Wagner motioned to approve the January minutes and Mary Ann seconded approval. The minutes passed unanimously.

Oregon Government Ethics Law

Michael Thornicroft

Judith introduced this agenda item by stating that even though ODAC members are volunteers, ODAC is considered a public body and Oregon ethics laws apply to ODAC. Michael Thornicroft, Investigator with the Oregon Government Ethics Commission (OGEC), provided a PowerPoint presentation and a document on responsibilities of being a public official. If ODAC members have questions on any of their activities, inside or outside of their duties on ODAC, contact the Government Ethics Commission.

The OGEC receives about 30 questions a day from State of Oregon employees, volunteers, and local government officials. Conflicts of interest in Oregon Ethics law not only apply to public officials but also to relatives or members of their household. Definition of "relative" includes spouse, child, son or daughter-in-law, parent including stepparent, siblings including step-siblings, members of the public official spouse's family, anyone for whom the public official has a legal support or obligation, and anyone receiving benefits of the public official's public employment.

For example: If an ODAC member lets a relative know about an opportunity that they learn of at an ODAC meeting and it is not an opportunity being made known to the public, then that relative also has to comply with the conflict of interest ethics laws.

Robert Lanphere mentioned that what ODAC does could affect their businesses and there may be a perception of financial gain to the industry generally or to specific businesses. How should ODAC members deal with that? Mr. Thornicroft stated that if there are enough ODAC members present to have a quorum, then those with a conflict could recuse themselves from a vote.

Oregon ethics laws are found in ORS Chapter 244. Oregon ethics laws apply to:

- Limits on financial benefits
- Limits on private employment and subsequent employment
- How to handle conflicts of interest
- How gifts are defined; and
- Limits in employing relatives and household members

Mr. Thornicroft noted that public officials can request an advisory opinion from OGEC staff. If provided all the facts, a staff advisory committee will provide an opinion suggesting the proper course of action. If a public official has a simple question regarding gifts or reimbursements, they can send an email or call OGEC. The best method is to submit the question in writing so that way both parties have it documented.

OGEC offers a booklet for public officials that answer a lot of questions that is available upon request. The handout provided additional resources and information. In summary, compliance with ORS 244 is mandatory for all public officials, which include members of ODAC.

Contact information for Michael Thornicroft:

Oregon Government Ethics Commission (OGECE) Phone: 503 378-6808 Email: Michael.Thornicroft@oregon.gov 3218 Pringle Rd SE Ste. 220 Salem OR 97302	Ogec.mail@oregon.gov Phone: 503-378-5105 Fax: 503-373-1456 www.Oregon.gov/ogec
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Review of Education Provider Applications

All

Judith discussed who had been on the education subcommittee: Dan Nicholson, Mike Wagner, Maryanne Trout, Evelyn Hecht and Tommy Wilson. Currently, Dan, Mary Ann and Mike are the only ones on the committee. There should be five ODAC members on the committee.

Judith introduced Becky Ortiz. Becky is the Operations and Policy Analyst for the Business Regulation/Fraud Prevention Section who is fluent in Spanish. She has been primarily doing work with the Fraud Prevention Unit, but has started to work more with Business Regulation. Becky contacted the dealer education providers and learned that two providers were up for their two-year renewal. The subcommittee reviewed the curriculum from OIADA and 5th Gear Enterprises. The subcommittee came to the consensus that both education providers met all requirements.

There was a motion to approve the two education providers, 5th Gear and OIADA. Motion carried.

Education Subcommittee – Nomination of New Members

All

Susan Thayer asked if anyone would like to volunteer to fill the two Education Committee vacancies. Gary Sargent and Scott Short volunteered.

2017 Legislative Session – Active Bills

Judith, ODAC Members

Judith reviewed several bills and provided a handout with summaries of five bills relating to Business Regulation. Judith suggested ODAC read the bills, which are available on the Oregon Legislature's website. None of the bills have passed the Legislature.

HB 2975: Courts may award reasonable attorney fees to dealers' retail customers who bring an action on and prevail against the surety on dealer's bond. Court may award statutory damages in amount equal to \$500 for violations of the vehicle code relating to registration, vehicle permits, transfer or alteration of vehicles, or the regulation of vehicle dealers. The bill would apply to conduct occurring after the bill's effective date.

HB 3120: DMV must designate vehicle dealer as agent. Specifies DMV may impose penalties against vehicle dealers that do not comply with regulations related to dealers active as DMV agents. Requires rule writing. (This bill is not a huge change from our current practices.)

Amy Joyce clarified that HB 3120 is intended to give DMV additional sanction authority between doing nothing and taking away the right to do business.

SB 974: Prohibits persons other than retail customers of vehicle dealer from making claim against vehicle dealer under certain circumstances. Prohibits DMV from issuing vehicle dealer certificates that authorize persons to deal exclusively in motorcycles. Limits bond claim for dealers licensed in other state(s) to \$10,000 if they hold a bond for a minimum of the same amount and other jurisdiction permits Oregon dealers to file a claim under that state's laws. The bill requires

Business Regulation to discontinue issuing 'DM' dealer certificates. Existing DM dealers can keep their certificate until business no longer exists. All new dealers must obtain 'DL' certificate. Surety bond would increase to \$50,000 from \$40,000.

Judith noted that Business Regulation has exhausted all DA numbers and has begun issuing dealer plates using the DL series.

Darrell stated if you are a dealer from a state that does not allow businesses to access their bond, then that dealer would not be able to access Oregon dealer bonds. Darrell will check the intent of the bill and answer some questions regarding this bill.

HB 2290: DMV Cost Recovery and Fee Streamlining bill. Based on comments during the hearings, the proposed fee change impacting dealers the most is the plate transfer fee which would increase from \$6 to \$20. Amy stated that significant changes were made to this bill from its original version. There have been at least 15 fees increases eliminated from the bill, and most do not apply to dealers and deal more with driver licensing and CDL issuances. This bill may be incorporated into a Transportation Funding Package.

Tom stated that the purpose of HB 2290 is for DMV to draw closer to cost recovery with its fees and establish greater consistency in what is charged for similar products or services.

Gary asked about the reason for increasing the plate transfer fee. Tom stated that it was primarily for cost recovery.

A discussion ensued regarding stolen plates and the procedures DMV currently follows for plate transfers.

Linda Beuckens mentioned the challenges of stolen plates. Stolen vehicles are identified during title issuance, but not stolen plates during a plate transfer transaction. The ability to transfer plates is in statute. Linda will get back to everyone at next meeting concerning work processes and legal requirements regarding plate transfers. Statutory changes may be needed in the future.

HB 2463: Provides an opportunity to expand the use of third-party delivery of functions assigned to ODOT and particularly DMV. Currently, DMV has one Electronic Vehicle Registration (EVR) contractor, which is MVSC/Vitu.

Business Regulation Section/DMV Report

Chuck, Judith, Stephanie

Judith mentioned that Business Regulation had a successful recruitment. Judith introduced two new dealer investigators: Darlene Watson and Andy Kapileo.

Andy Kapileo has been with Business Regulation for 2 months on a rotational assignment. He worked in the DMV Customer Service Group for the past 11 years, which included being the Technical Assistant for the division's call center at Oregon State Correctional Institution. Andy promoted to managing the Customer Assistance Unit at DMV HQ before coming over to Dealer Investigations. Andy is assigned to Marion, Polk, Yamhill, Benton, Lincoln, Harney and Malheur counties.

Darlene Watson will be covering Linn, Coos and Lane counties. She worked at Albertsons for 24 years as a regional service operations manager. Darlene specialized in training compliance and loss prevention as well as customer service for the entire area. Darlene started at DMV three years ago, working at the Springfield DMV Field Office before being hired as a dealer investigator.

Judith stated Business Regulation is very happy to have both of them as they are a great fit. They have already written reports for Larry and have conducted audits and compliance checks at dealerships. Darlene has already responded to a few requests for investigation. Monty asked that a bio of both investigators can be published.

Chuck went over the licensing data for first quarter of 2017. Original applications currently being processed include 13 franchises (Tonkin) that were bought by Gee Automotive. Next quarter's data will reflect at least 13 original applications while first quarter only shows one original application. . Renewals have decreased compared to this time last year. Commercial driver training schools are close to where they were last year.

Monty asked whether Business Licensing received any DM renewals this year.

Chuck said no originals, but 8 renewals were received this year. Several DM certificate holders switched to vehicle dealer certificate (DA/DL).

Judith mentioned that over the last year, DM holders have been switching over because when there was a statutory change for the definition of Class III and IV ATV's in 2011, statutory changes to bond requirements did not happen. Dealers selling Class III and IV ATVs must carry \$40,000 bond rather than the DM \$2,000 bond. Licensing received one DM original this week from Gee Automotive.

Processing DMV Transactions: Stephanie Zellner spoke about a policy issue pertaining to when DMV would allow transactions to be stopped. DMV's Vehicle Policy Core Group was asked whether DMV should stop a transaction that has been submitted but not yet processed to allow a customer to substitute a more recent transaction or a corrected application.

When dealers and other customers submit an application to DMV and forget to list an owner or other information on the application, they occasionally ask DMV to retrieve the transaction so that a revised application can be submitted. "Fixing" an already-submitted application creates a lot of work for DMV. The one transaction DMV is required to stop is when there is an omitted security interest perfection that needs to be noted on the title. In other situations, DMV is not required to stop the transaction.

DMV's Executive Management Team (MT) decided that DMV will only stop the transactions for security interest perfection. If a lienholder is omitted from the application, or if financing falls through and the security interest holder needs to be switched out by the dealer, DMV would stop the transaction. All other transactions would move through the process. A title would be produced and if something has to be fixed after the fact then a new transaction must be submitted.

As examples, Stephanie mentioned that the most common situation would be an application not including all owners or a registered owner on the application. Also, if the sale falls through, that usually happens within 5 days of the sale and dealers have 30 days to submit the paperwork to DMV. DMV receives some transactions very quickly, especially through the EVR program. When the dealer hits 'submit' for the electronic transaction, it is completed. The transaction cannot be stopped by the EVR integrator or DMV. In those cases, if a dealer is not quite sure on the financing, wait a little while because you have 30 days to submit the transaction.

Tom asked about the timeframe for implementing this new process.

Stephanie mentioned that it was approved by MT on April 24th, and a DMV policy analyst will draft an implementation plan. The process may take a few months. There is no specific completion date. An article regarding the process will go into an upcoming issue of *Dealer Details*.

Stephanie also mentioned that with DMV's new computer system (Service Transformation Program, STP), once transactions are entered, they will be submitted right away. DMV will not be able to stop the transaction.

Tom mentioned that the goal is to get transactions processed as quickly as possible.

Monty asked if DMV does catch a mistake and DMV is able to issue vehicle titles in 5 days, will the customer have to pay another title fee?

Stephanie answered 'no'. If DMV processes a new transaction, a new fee and application would be required. But if DMV hasn't processed it yet then DMV would not require the customer to pay another fee.

Monty then asked if there are any new policies or changes arising from this. Is there any impact anticipated from this change?

Jennifer Mueller, visitor from VITU asked about voided transactions. As far as correcting it on the back end, are those getting fixed at DMV? VITU's office audits transactions for DMV to be able to fix a transaction before it goes out to the customer or the lien holder. A lot of the voids are due to finances falling through and the transaction was sent by the dealer to VITU too quickly.

Stephanie responded "yes" to Jennifer's question and continued to stress how important it is to review the application in its entirety before submitting it to DMV.

Mike Wagner asked if Stephanie's group was in charge of reviewing the possessory lien transactions.

Stephanie said that Processing Services Group is doing the review on those transactions, rather than the Vehicle Programs Section.

Dennis asked: what is the goal with the new system in producing vehicle titles?

Stephanie stated that DMV's current production goal is 21 days. In the future, we may have the ability to produce titles using the new system within about a week.

Monty asked if we can change the expedited title process time to 1 or 2 days for the \$100 cost.

Tom mentioned expedited titles might be removed from statute since all transactions would essentially be expedited in the new system.

New Business/Announcements/Roundtable

All

Judith mentioned that several bills are still active involving unlawful trade practices, consumer protection, towed vehicles, and ATV corridors. There is a unique bill regarding commercial sex solicitation convictions (HB 2793). Business Regulation will have to change applications for transporters, dealers, dismantlers, snowmobile instructors and commercial driver training schools if the bill passes. The bill requires DMV to state on applications for certificates, licenses, permits or registrations that by the application being approved, applicant agrees to comply with requirements

of the bill. In other words, if an applicant is convicted of commercial sexual solicitation, the defendant shall provide to the court a complete list of Oregon licenses, certificates, permits and registrations that the person holds. If HB 2793 passes, the changes will not occur until 2018. By that time, DMV will have drafted rules pertaining to the application of new law.

Susan and Mary Ann mentioned the added oversight by DMV of possessory lien transactions.

Amy Joyce responded that possessory liens are now routed to headquarters for processing. Employees with specialized expertise, as opposed to the many people working out in field offices with various other tasks, will ensure the form is completed correctly and nothing looks out of place. This should result in less fraud. A bill introduced this session concerning possessory liens was stopped because DMV made this procedural change for possessory liens.

Dan received a letter from DMV regarding insurance cancellation because his insurance company is no longer providing insurance services to car dealers. Judith stated that Business Regulation does not send a letter if the insurance is about to expire. Statute requires DMV to send notification to the registered agent of a dealer if DMV receives cancellation notification from the insurance company. Dan was concerned because his attorney, insurance company and flooring company received the DMV letter. Judith will look into why more than the registered agent received the notice.

Judith clarified that DMV cancels dealers once Business Licensing receives the cancellation notice from the insurance provider. Once DMV is notified by the insurance company that the insurance has been or will be cancelled, Licensing sends a notice via certified mail, which sometimes indicates immediate cancellation or with a projected date of the cancellation. DMV removes dealers from the EVR program and any record inquiry accounts once they are cancelled.

Darrell quickly commented upon a few bills that were not discussed. He apologized to Robert Lanphere when he said that OVDA was the only ones who testified under HB 2975. Greg attended the hearing, but nothing was submitted in writing.

HB 2877 is dead. That is the bill that would have created a \$1,000 tax on anybody who had a vehicle that was over 20 years old.

HB 3322 would have licensed auto repair shops for the first time. This bill is dead, but there will be an interim workgroup because there is some interest in the industry and from some consumer groups about having a license to run a repair shop.

SB 645 adds Humvees to the definition of vehicles of special interest and is still a live bill. Humvees are not street legal. This would allow Humvees to be licensed as a specialty vehicle in Oregon.

HB 3323 would have increased the dealer bond from \$40k to \$100k, but that bill died.

SB 134 concerns buy/sell agreements between dealers and their customers. OADA introduced amendments to the bill so that if a deal has to be unwound, then the customer returning the vehicle has to pay for the use and mileage of the vehicle. There was a limitation on the number of days and OADA made an adjustment there. It was a DOJ bill that DOJ told the dealers associations the bill didn't do anything and that it was a "simple bill".

SB 973 was an OVDA bill concerning vehicle auctions that did not move forward. The group already talked about SB 974 which is the bond increase and that is moving forward. In case you are tracking, OVDA also had SB 975 and SB 976 that were not moved forward.

Gary raised questions regarding an article in the last *Dealer Details*. If a dealer collects document processing fees and then the customer decides they want to take the transaction to DMV directly, then the dealer now has to refund the document fee. Gary would like clarification on this. The title clerks have already done their job. He asked how it is written in the statute.

Linda answered that in statute (ORS 822.043(7)) it says that the “dealer shall prepare and submit.” Coupling the two words together means a dealer must prepare and submit the documentation to DMV in order to collect the fee. Linda also suggested that dealers could clarify this with customers before the paperwork is prepared.

Meeting adjourned at 12:03.