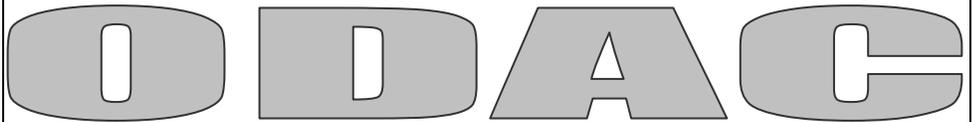


July 27, 2017
9:00 a.m. to Noon
DMV HQ
Conference Room 382



Oregon Dealer Advisory Committee

Presiding Chair: Susan Thayer, Chair

<u>Agenda Items</u>	<u>Sponsor</u>	<u>Time Allocated</u>
1. Call to Order / Roll Call	Susan and Becky	9:00 – 9:05
2. Approval of April 27, 2017 meeting minutes	All	9:05 – 9:10
3. DMV's Service Transformation Program Update - Ben Kahn, Transformation Manager	All	9:10 – 9:30
4. Rules Concerning Dealer-Only Auctions - OAR 735-150-0047	Larry	9:30 – 9:50
5. Consignment Practices - ORS 822.060	Larry, Judith	9:50 – 10:15
6. Supplemental Location Sales and Display of Vehicles for Advertising Purposes; Internet Sales - ORS 822.040	Larry, Judith	10:15 – 10:30
7. Break	All	10:30 – 10:45
8. 2017 Legislative Session – Enrolled Bills -Amy Joyce, ODOT Government Relations	Amy, Judith	10:45 – 11:00
9. Business Regulation Section / DMV Report - Licensing Update, Dealer Investigations Update - Plate Transfer Rules	Judith, Larry, Linda	11:00 – 11:30
10. New Business / Announcements	All	11:30 – 12:00
11. Adjournment	All	12:00

Date of next regularly scheduled meeting: October 26, 2017

Accommodations will be provided to persons with disabilities, and alternate formats of printed material are available upon request. Please call (503) 986-4188 (or statewide relay 7-1-1) at least 48 hours prior to the meeting. Questions about the meeting in general? Please call Judith Ingram Moore at 503-945-5283.



Oregon Dealer Advisory Committee Meeting Minutes

July 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. Larry Purdy, Chief of Investigations Becky Ortiz, Bus. Reg/Fraud Prevention Analyst Courtney Wimberly, Bus. Reg/Fraud Prevention Coord.</i>
Roger	Kirschner	RV Representative	
Dale	Geiger	DOJ Representative	
Mary Ann	Trout	Dismantler Representative	
Dennis	Keena	General Public Representative	Members Absent:
Alex	Fraser	Auction Representative	<i>Gary Sargent – Power Sports Representative Dan Nicholson – Used Dealer Representative Shannon Nill – New Dealer Representative</i>
Jeff	Helget	Dismantler Representative	Guests:
Mike	Wagner	Tow Representative	<i>Teri Medina – VITU/EVR Kyle Haugan-Walker - VITU Amy Joyce – ODOT Government Relations Lars Dahlby – Enterprise Holdings Ron Terry – Former ODAC Member Brian Hardy – Crosspoint NW</i>
Robert	Lanphere Jr	New Dealer Representative	
Scott	Short	Used Dealer Representative	
Industry Association Representatives Present			
Diane	Sparks	OIADA	
Monty	King	OVDA	
Greg	Remensperger	OADA	

Call to Order /Roll Call

Susan/Judith

Susan Thayer called the ODAC meeting to order. Judith took roll call. 8 members were present to make a quorum. Two additional members arrived shortly after roll call for a total of 10 members present.

Approval of April 27, 2017 meeting minutes

ODAC Members

Susan asked if everyone received the minutes and if there were any edits or questions. Bob Lanphere moved to pass the minutes. Minutes approved.

DMV's Service Transformation Program Update

Ben Kahn

Ben presented a PowerPoint presentation regarding updates to STP. The vehicle system will be the first up and running within the next 18 months; both driver and vehicle systems are expected to be up and running within the next three years. Dennis Keena asked what the life expectancy is for the program and Ben replied that DMV will receive updates to the system on a regular basis as part of the agreement with FAST Enterprises, the company chosen for installation of DMV's new software system.

Introductions

All

ODAC members and guests identified themselves and their respective affiliations.

Rules Concerning Dealer-Only Auctions

Larry

Larry provided a handout with a brief explanation regarding dealer-only auctions. DMV does not have the authority to designate which auctions are dealer-only. All auctions in Oregon are required to be licensed dealers. Each auction makes the determination as to which are going to be dealer-only and which are public. Auctions are responsible for obtaining and maintaining proof that a person participating in a dealer-only auction is a dealer or employee of a certified/licensed dealer. Non employees may be present at a dealer-only auction as long as they are not participating. Dealers and their employees licensed in other jurisdictions are allowed to participate in dealer-only auctions without violating ORS 822.005 (acting as vehicle dealer without certificate). DMV will investigate complaints of specific instances where non-employees are alleged to be participating in dealer-only auctions. DMV does not have the staff or man-power to be at every auction. If a complaint is received, DMV will investigate to make sure the auction was in compliance. Violation of the rule relating to dealer-only auctions follows the standard penalty matrix. First time violations are a warning, second would be monetary penalties, and then potential sanctions after that.

Monty King said there is no definition of 'participation' in the rules. He stated the word 'participation' needs to be defined. His definition of 'participation' is being present during the auction.

Linda Beuckens stated that DMV will verify after further research whether the agency's interpretation complies with statute.

Larry clarified that in the last ten years, he is aware of one general complaint about a dealer-only auction. The complaint wasn't specific towards one dealership or one non-employee but simply a complaint about a particular auction.

Consignment Practices

Larry, Judith

Judith stated that a consignee is the dealer that's taking a vehicle on consignment. DMV received a query as to when date of sale occurs for consignments. Oregon Administrative Rules states the "date of sale 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 consigner payment under statute. For auctions, date of sale means the date when the consigning party delivers the necessary title documents to the purchasing dealer.” The date of sale is different for the retail customer than it is for auctions. DMV doesn’t have a lot of issues with auction consignments.

Larry said there are dealers out there primarily dealing only in consignments and they are doing their best to stay on top of them to ensure compliance. The dealers who need to be out of business are going out of business. Larry says there are ongoing problems with consignments and DMV deals with those problems when they arise.

Bob Lanphere mentioned it would be easy to find consignment dealerships if you Googled “consignment” online.

Dale Geiger said most of the problems coming from a DOJ standpoint are the dealers that primarily deal in consignments and have no skin in the game. They don’t have the inventory overhead like most established dealerships. When they go out of business, they go out big and often take out four victims for each consigned vehicle.

Monty King brought up HB2975 which passed through a Senate Committee this legislative session. It would have authorized courts to award statutory damages to retail customers of vehicle dealer’s under certain circumstances. SB974 was passed in order to increase the bond to \$50,000. There is a task force being formed that will be led by Senator Chuck Riley who was previously a used car salesman. Monty would like more participation in the task force. The goal is to have something by November so it can be ready for the 2018 legislative session. Monty also said NW RV should have never happened and that DMV needs to get these people out of business faster.

Supplemental Location Sales and Display of Vehicles for Advertising Purposes

Larry, Judith

Judith received several calls and questions regarding dealers that are selling vehicles offsite or making deals in shopping center parking lots. If a dealership wants to put a vehicle off-site, it can be done for advertising purposes but a dealer transaction cannot occur there. A dealership has their main location, but if a vehicle is sold somewhere else, that dealership needs to hold a supplemental certificate for that specific location.

Greg Remensperger stated that Tesla sets up sales events around the state on a regular basis and they are in violation of the state law.

Judith said they have been cited and DMV is working on the issue.

Greg said they should be cited every time they are in violation.

Monty mentioned that some Washington dealers deliver cars to customers in Oregon and the paperwork is being conducted at the customer’s location.

Larry stated that is a violation and part of the reason why the AAMVA working group was formed. There are currently 12 members. It’s not just an Oregon issue, it’s nationwide. It’s hard to control internet sales. Texas is an example of prohibiting out of state online-only businesses from doing business in their state. The working group is trying to come up with best practices and include a consumer education component as well.

Bob mentioned the latest scam on EBAY with regards to vehicles offered for sale, they are advertised cheap and the advertisement mentions that gift cards are accepted as payment. When a person wires money, the vehicle never shows up.

Dale said in the last year there have been three different cases where somebody set up a website with the same dealership name as an Oregon dealer which included all their information. A customer then wires the money to the "dealership" and it's gone.

Linda recommended that dealers should Google themselves and look for a web presence. There is a possibility that someone may have used a smaller dealerships name in order to scam customers out of money.

2017 Legislative Session – Enrolled Bills

Judith, Larry, Linda

Judith gave a brief summary of some DMV / ODOT related bills that passed in the 2017 legislative session.

HB2463: In effect. Provides an opportunity to expand the use of third-party delivery of functions assigned to ODOT and particularly DMV. This concerned the EVR program.

HB2291: Effective January 1, 2018. Allows weighmaster or motor carrier enforcement officer to enforce law prohibiting illegal alteration or display of registration plates.

SB974: Effective January 1, 2018. Prohibits persons other than retail customers of vehicle dealer from making claim against vehicle dealer when vehicle dealer is authorized to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles. DMV will discontinue issuing 'DM' dealer certificates. Existing DM dealers can keep their certificate until the business no longer exists. All new dealers must obtain a 'DL' certificate. This bill increased the surety bond to \$50,000 from \$40,000; and from \$2,000 to \$10,000 for current DM dealers.

SB134: Effective January 1, 2018. Subjects motor vehicle seller and buyer to certain conditions contingent on lender's agreement or failure to agree to purchase retail installment contract or lease agreement for motor vehicle.

SB980: Effective January 1, 2018. Manufacturer to compensate franchisee for labor and parts required to perform repairs on vehicles subject to recall.

Amy Joyce gave a brief explanation about additional bills.

HB2779: Sets conditions under which a person or agent collecting moneys for a state agency may take more than one business day to transmit moneys to State Treasurer.

HB3120: Effective January 1, 2018. DMV must designate vehicle dealer as an agent. DMV may impose penalties against vehicle dealers that do not comply with regulations related to dealers acting as DMV agents.

SB344: Allows the OTC to designate "ATV Access Routes" on state highways, intended to be short connections between two ATV trails, or a campground and the local community.

SB117 and SB488: Towing related bills. Mike Wagner was very involved in negotiating both bills.

HB3125: In effect. Defines "autocycle." Defines "autocycle" as a 3-wheel motorcycle with side by side seating and a steering wheel. Provides that person may operate autocycle without a motorcycle endorsement (just a Class C license). An example would be the Polaris Slingshot. To see what it looks like, Judith suggested looking at the Polaris testimony during the legislative hearing to view a PowerPoint that shows the autocycle's frame and exterior.

SB5540: ODOT budget. The STP was granted full funding request, and due to the work of ODAC, DMV was authorized to hire another full-time employee for unauthorized dealer investigations.

SB374: Operative July 1, 2020 when DMV will have its new driver-related system in place. Directs DMV to allow customers the option of a REAL ID compliant driver license, permit, or ID card.

HB2017: Transportation funding package. A large investment in highway construction, transit all around the state, and the new privilege and use tax. Tax of 0.05% on the value of cars sold. Customers who purchase a vehicle out of state in order to avoid the tax will be assessed a use tax of the same amount.

Greg said the intent of the privilege tax in HB2017 is for the initial sale of a vehicle. How it will be defined on the sales agreement is still yet to be determined. When the 0.05% tax will be implemented is still yet to be determined. The money that goes from the dealer sales when collected and paid is going to go into a fund that creates an incentive program for electric vehicle sales. If it's a full electric vehicle, a customer can qualify for a \$2,500 incentive. DEQ was given the go-ahead to implement the program but it's unknown at this point when that will happen.

Amy says there will be a clean-up bill in 2018 for the whole transportation funding package. It was a nearly 200 page bill with lots of moving parts and a lot being negotiated at the end of session.

Monty brought up that Linda mentioned to him earlier that the plate transfer fee did not make it into HB 2017. Monty said that the plate transfer fee is currently \$6 and it will remain at \$6 even though it costs DMV \$30. He thanked Tom for not getting that in. Tom stated that it will not be going away.

Greg wanted to mention one more piece of information regarding the privilege tax; the money that's collected on the use tax from out-of-state sales will not go into the incentive fund money. The use tax money actually gets dumped into the highway trust fund because it's a use tax so it has to go in there. One of the things that he's concerned with is that when the electric vehicle incentive fund was raised, it was estimated somewhere around \$14 million dollars. When Greg ran the number of car sales last year, times the typical average price of a car sold on the new car market, it's going to generate somewhere between \$22-\$25 million dollars so there will be excess money in that fund per year that the consumers will be paying. It's listed as a business privilege tax but with the way it's structured, it will be the consumer that ends up paying it. He made a suggestion regarding the excess fund because it is transportation related, but not transportation defined; he suggested that it can help possibly increase the number of investigators and implementation of the rules that currently exist.

Monty suggested an idea regarding consignments as was previously spoken about. As Greg had made the suggestion to put some of the excess money towards hiring more investigators, Monty mentioned possibly hiring an investigator specifically for consignments.

Amy clarified that something like that would have to go through the legislative process.

This is the link to ODOT's summary of bills passed during the 2017 Legislative session:
<http://www.oregon.gov/ODOT/About/GR/2017LegislativeSummary.pdf>

ODAC was provided current data for Business Licensing activity. One page shows each quarter difference and the other page shows the overall increases for the first half of 2017.

Larry mentioned that he received the approval to hire an unlicensed dealer investigator. The current vacancy for an investigator in Portland is posted and the Salem position is also posted.

Linda referenced the January meeting where she promised to provide more information on statutory requirements and policies regarding plate transfers. Linda said there was a concern at the January meeting of how easy and inexpensive it is to transfer plates from one car to another. She stated that there are only two statutes that address plate transfers. There are no administrative rules around this process. The first statute is ORS 803.530, which states that the registration plates assigned to a vehicle will remain with that vehicle except that DMV may allow registration plates to be transferred with an application and a payment. The statute also states that DMV shall transfer registration plates unless the plate is illegible, damaged, mutilated, or if it is a plate DMV no longer issues or registers. The statute does not limit plate transfers to a registered vehicle owner. The other statute is ORS 803.575 which says the fee for transfer of registration plate is \$6. It was noted that the last cost fee study, determined it actually costs DMV \$30 to process a plate transfer.

DMV's current system does not have a mechanism in place to identify that a plate has been stolen or reported stolen to the police. When DMV transfers a plate, if it has current registration, the registration is also transferred. It is policy for DMV to assume all plate transfers are legitimate and to not challenge the customer.

Greg asked how that can be changed. Recently dealers have had plates stolen off of vehicles in their lots with multiple years left on the tags. The plates are sold online and the purchaser then takes those plates to the DMV and transfers them to their vehicle.

Linda stated that a legislative change could be an option, but a bill proposing plate transfers be restricted to current registered owners was introduced in 2015 and didn't pass. Linda has asked for legal advice on the statutory requirements and DMV's authority to modify existing practices. Based upon this advice DMV will review current policy for possible changes that could make plate transfers less attractive for thieves, while continuing to support customer needs. DMV will keep ODAC informed of any changes it makes that would address the concerns raised.

New Business / Announcements**All**

Susan mentioned that there is no vice chair on the committee. Roger Kieschner indicated he is willing to be the vice chair. The motion was carried.

Susan also mentioned before the meeting adjourned that she spoke with Larry about the fact that people are not required to show proof of ID when purchasing a car. This is something to think about and a possible topic to discuss at the next meeting.

Meeting adjourned at 11:55 am.