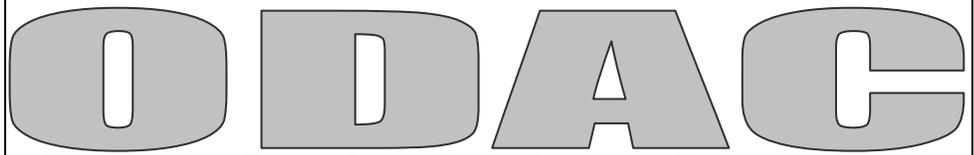


October 26, 2017
 9:00 a.m. to Noon
 DMV HQ
 Conference Room 382



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 / Welcome Guests	Susan and Courtney	9:00 – 9:10
2. Approval of July 27, 2017 meeting minutes	All	9:10 – 9:15
3. Plate Transfers Update – DMV Policy	Linda Beuckens	9:15– 9:25
4. Electric Vehicle Rebate Program - Rachel Sakata, Air Quality Planner, DEQ	Judith	9:25 – 9:50
5. Use and Privilege Taxes – HB 2017 - Xann Culver, Business Special Programs, DOR	Mary Liedtke and Judith	9:50 – 10:20
6. Laws Effective January 1, 2018 and Related Rule Writing (Relating to Business Regulation)	Becky	10:20 – 10:40
7. Break	All	10:40 – 11:00
8. Review Education Providers' Applications - @ Your Pace Online LLC (AYPO) - ! A Certified Dealer Education School (OVDA)	All	11:00 – 11:10
9. Dealer Education Requirements	Becky and Judith	11:10 – 11:20
10. Business Regulation Section / DMV Report - New Dealer Investigator's Introduction • Jessica Miller - Licensing Update	Judith	11:20 – 11:30
11. New Business / Announcements - Please share information that may relate to ODAC	All	11:30 – 12:00
12. Adjournment	All	12:00

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 Moore at 503-945-5283.

Date of next regularly scheduled meeting: January 25, 2018



Oregon Dealer Advisory Committee Meeting Minutes

**October 26, 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. Jessica Miller – Investigator</i>
Dale	Geiger	General Public Representative	
Dennis	Keena	General Public Representative	
Mary Ann	Trout	Dismantler Representative	
Jeff	Helget	Dismantler Representative	
Mike	Wagner	Tow Representative	
Alex	Fraser	Auction Representative	Members Absent: <i>Shannon Nill – New Dealer Representative (excused) Roger Kirschner – RV Representative (excused) Scott Short – Used Dealer Representative (not excused)</i>
Robert	Lanphere Jr	New Dealer Representative	Guests: <i>Kyle Haugan-Walker - VITU Amy Joyce – ODOT Government Relations Shannon Johns – Department of Revenue Xann Culver – Department of Revenue Rachel Sakata – Department of Environmental Quality Liz Woods – DMV Policy Analyst, Rules Coordinator Mary Liedtke - DMV Policy Analyst Amy Joyce – ODOT Government Relations</i>
Dan	Nicholson	Used Dealer Representative	
Gary	Sargent	Power Sports Representative	
Industry Association Representatives Present			
<i>Diane</i>	<i>Sparks</i>	<i>OIADA</i>	
<i>Monty</i>	<i>King</i>	<i>OVDA</i>	
<i>Darrell</i>	<i>Fuller</i>	<i>OVDA</i>	
<i>BJ</i>	<i>Clark</i>	<i>OVDA</i>	
<i>Greg</i>	<i>Remensperger</i>	<i>OADA</i>	

Call to Order /Roll Call

Susan/Judith

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

Introductions

All

ODAC members and guests identified themselves and their respective affiliations.

Approval of July 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. MaryAnn Trout seconded. Minutes approved.

Plate Transfers Update – DMV Policy

Linda Beuckens

DMV is going to address the concerns raised at the April meeting by adopting a new administrative rule. The intent is to separate plate transfers from registration, essentially eliminating the benefits of stealing plates and selling them for their registration. Meeting participants were invited to participate in a Rule Advisory Committee that Liz Woods, DMV Rules Coordinator, will organize. Greg Remensperger, Diane Sparks, BJ Clark, Susan Thayer, and Gary Sargent volunteered to be part of the committee. Liz is planning a November meeting and will send meeting invitations to those who said they'd like to participate.

The rule advisory committee is part of the rule-making process where DMV will share the issue and receive input from stakeholders. Liz will then draft the rule, and the rule will be available for public review and comment.

Mary Ann added that they've seen an increase in customer inquiries at the wrecking yards about buying plates with good registration, which may be due to the fact that registration fees will be increasing.

Greg asked Tom if the new system (STP) will be able to handle stolen plates. Tom said it's not a system requirement.

Alex Fraser commented that one way to possibly stop transfers is to offer a shorter registration for new cars because currently they get a 4-year registration.

Linda said that many ideas have been considered in the past, including the elimination of plate stickers. However, major changes like this will not be considered before our new system is implemented.

Electric Vehicle Rebate Program - House Bill 2017

Judith

Rachel Sakata, an air quality planner from DEQ, presented a PowerPoint regarding the electric vehicle (EV) rebate program which is a result of House Bill (HB) 2017. Rachel noted that they are in the very early stages of the program. The bill directs DEQ to implement two new electric vehicle rebate programs, Electric Vehicle Rebates and Charge Ahead Rebates. One of the purposes of HB 2017 was to reduce air pollution. The EV Rebate offers rebates for the purchase or lease of a new electric vehicle. The rebate amounts can vary between \$1,500 to \$2,500 dollars if the battery capacity is 10 kilowatt hours or greater and \$750 to \$1,500 if the battery capacity is less than 10 kilowatt hours. In order to qualify, vehicles must be \$50,000 MSRP or less. Charge Ahead Rebates can vary from \$1,250 to \$2,500 which will be offered for the purchase or lease of new or used EV. Qualified applicants must be in a low- or moderate-income household, reside in an area with poor air quality, and scrap an internal combustion engine car that is at least 20 years old. It can be combined

with a conventional rebate which is a potential savings of up to \$5,000 when purchasing a new EV. Rulemaking is necessary to define eligibility criteria and the application process. It will be necessary to establish the rebate amounts, define rebate application procedures, and the eligibility criteria for when purchases are made and when a customer will be eligible for a rebate. The rebates are being funded through the privilege tax on the sale of any new vehicle. The privilege tax does not go into effect until January 1, 2018. DEQ cannot issue any rebates until they have enough funding to issue rebates. DEQ anticipates rules being adopted in spring of 2018. One thing under consideration is a potential fix to HB 2017 which might include removing the requirement of having to scrap a car.

Use and Privilege Taxes – House Bill 2017

Mary Liedtke, Judith

Judith mentioned that DMV has been meeting with the Department of Revenue over the last couple of months since House Bill 2017 was adopted.

Xann Culver from the Department of Revenue spoke about the new privilege tax for vehicle sales in Oregon, and vehicle use tax for vehicles purchased out-of-state and registered in Oregon. The two programs start January 1, 2018. There is potential for a constitutional challenge and the challenge has to be filed within 30 days of the bill becoming effective which was October 6. The constitutional challenge applies only to the use of the revenue from the privilege tax. According to HB 2017, the privilege tax revenue will not be going into the highway fund. If there is a challenge filed and the state loses, both the privilege and the use tax would end on the day of the Supreme Court decision, however, the taxes start January 1 and there is no provision for delaying the implementation.

The tax is half of a percent and applies to the retail sales price of new motor vehicles. The law says new motor vehicles include trailers and items without motors.

Judith brought up ORS 744.850 where “vehicle” is defined.

Diane Sparks asked how would mileage on a trailer be determined if part of the definition for vehicle says a vehicle is considered new if it has less than 7,500 miles?

Xann said they have not defined that yet, but are in the process of drafting rules to implement the tax requirements. The dealer is allowed to collect tax from the consumer but not required. The dealer is still the entity that’s considered the taxpayer and is responsible for paying the tax. There’s a use tax component for vehicles that are purchased outside of Oregon. If a customer buys from a dealership out of state, the dealer is required to collect the use tax at the same percentage rate and remit it if that dealer has a connection to Oregon. All taxes are due to the Department of Revenue from dealers on a quarterly basis.

Gary Sargent used an example of someone buying a car in Idaho and asked if the Department of Revenue is going to visit that dealership and collect the money that’s owed. Xann said DMV is not allowed to title and register a vehicle that’s subject to the use tax unless there is evidence that the use tax has been paid. A dealer in Idaho has no connection to Oregon so they are not required to collect tax from the customer. However, they may want to collect because the lien holder won’t be able to get their security interest on the title until evidence that the use tax has been paid and DMV can process the title work. Xann also said they have been reaching out to dealers that are known to sell to Oregon customers and letting them know about the use tax and requirements. Online filing and payments will be available to make it easier.

Monty asked if you buy a brand new boat with a trailer, is the sales tax on the entire package or just the trailer?

Xann confirmed that it's just on the trailer. Boats are not included in the privilege or use tax.

Xann spoke about exemptions from the privilege tax which do not apply to purchases that are made by non-residents. One exemption would be vehicle event sales where the event lasts less than 7 consecutive days and admission to the general public is charged. Vehicles sold at auction are another exemption, and ATV's are not subject to the use or privilege tax.

The privilege tax funds the zero emission incentive fund (Electric Vehicle Rebate Program), which provides for the rebates with the first \$12 million of the privilege tax revenue that's collected on an annual basis. The remaining revenue that comes in will go to the Connect Oregon fund for intermodal transportation projects. The zero emissions fund is currently scheduled to go away at the end of 2023 at which point all of the privilege tax would go to Connect Oregon. 100% of the use tax will go to the Highway Fund.

Bob Lanphere made a motion that ODAC convey its concerns regarding the implementation of the privilege tax. Alex Fraser seconded the motion. The motion is to recommend a delay of the implementation of HB 2017's taxes to the four chairs of legislative committees involved with HB 2017.

After some conversation, Greg Remensperger clarified that ODAC would ask to "pump the breaks" and delay implementation in order to receive more clarification of the bill, and possibly postpone implementation until the end of the 2018 session. ODOT and DOR are statutorily required to implement these provisions of the bill on January 1, 2018.

Laws Effective January 1, 2018 and Related Rule

Becky

Becky Ortiz mentioned that she will be reaching out to ODAC for rule-writing and rule-making if needed for certain bills.

SB974 relates to dealers and bonds. Modifications have already been made to the bond form to show the increased amount from \$40,000 to \$50,000 and from \$2,000 to \$10,000. Those will be available to the public as of January 1, 2018.

DMV sends out renewal applications to dealers at least 45 days in advance of expiration. The new bond application will be in the renewal packets for dealers with certificates expiring 12/31/17. Any dealer who renews prior to a 12/31/17 expiration date -will still use the \$40,000 bond.

Any new dealers or renewals after January 1, 2018, will need to have the \$50,000 bond.

Monty asked if a dealer applies on December 31, 2017, to become a new dealer, will the bond amount be \$40,000. Judith answered "if the application is complete, then yes."

The summer Dealer Details issue includes an article with a list of the fee increases effective 1/01/2018. The fall issue will also include an article on the fee increases.

Review Education Providers' Applications

All

Judith said the education sub-committee reviewed the two education providers who are up for renewal which is every two years. She heard back from three people on the education sub-committee and it was stated no issues were found.

@ Your Pace Online LLC is purely online. The main office is in Grants Pass.

Oregon Vehicle Dealers Association has in-person and online courses.

Mary Ann made a motion to accept the two dealer education providers. Mike Wagner seconded. The motion passed.

Dealer Education Requirements

Becky, Judith

A franchised dealer is required to complete a one-time, 8-hour pre-certification class when they apply as a new dealer. Becky asked for clarification from ODAC regarding a franchised dealer applying to become a non-franchised dealer in addition to their franchise business. Would they be subject to the continuing education? This type of scenario is unclear in statute and there is no rule to clarify.

Under ORS 822.027(3), the particular scenario would not meet the exemption for franchised dealers completing the continuing education if they have become a used car dealer.

Monty said he wrote the bill in 1997. There was an agreement with new car dealers that they didn't have to complete the continuing education. He said if a dealer owns different lots, one for franchised and one for non-franchised, what does it matter. They are still required to obtain twelve hours of education every 3 years.

Mary Ann says she thinks a franchise dealer with a separate business as a used car dealer should have to take the continuing education. Diane Sparks agreed.

Business Regulation Section / DMV Report

Judith

Larry introduced the new Portland Investigator, Jessica Miller. Jessica came from the Motor Carrier Division where she worked in enforcement as well as complaint resolution/economic regulation.

Larry said that the new unlicensed dealer investigator position became effective October 1. A current dealer investigator transferred over to that position. Starting December 1, this same investigator will help train the new investigators. Larry doesn't anticipate seeing a marked increase in the number of unlicensed dealer cases in the immediate future.

Larry also said David Jurgenson is retiring on November 31, 2017, and Larry is currently awaiting a response to a job offer he made for a vacant investigator position.

Larry discussed a subject he presented around a year ago about some dealers that were offering to consumers the option of the dealer delivering cars to their house or office, where the dealer is completing the sale. A determination was made that a dealer would need a supplemental license for each location where the sale takes place. If the transaction is taking place other than at their licensed location, they would need a dealer certificate for that particular location. Larry said DMV has been receiving complaints lately from dealers that they're seeing more advertising, especially from new car dealers offering the service. Larry said they are not going to actively go out and pursue the dealers unless DMV receives a specific complaint. He's checking with the Department of Justice (DOJ) to see whether DOJ would consider this a violation of the Unlawful Trade Practices Act, in that the dealer is advertising a service that may not be legal in Oregon. His unit will be treating that delivery service the same as they would any other dealer selling from an unlicensed location. If they can document that they're conducting sales at a location other than their licensed location, DMV will take the same enforcement action as they would against anybody else.

Greg confirmed as long as you do the paperwork at the dealership you can deliver the car to a different location. Larry said yes, as long as the transaction is taking place at the dealership. Greg suggested he would follow-up with his members, reminding them of the requirements for conducting the transaction at their licensed location.

Larry is a member of the AAMVA Internet Vehicle Sales Working Group and they are meeting in November. The group is working to develop a "Best Practices" guide relating to internet vehicle sales. The guide will provide direction to jurisdictions about how to regulate internet sales and also provide information for dealers and consumers. One of the topics the group is discussing is how to determine where a sale actually occurs. For example, if a document is sent to the customer via e-mail, signed and sent back to the dealer, where did the sale take place?

Monty says the rule states the date of sale is the date of possession.

New Business / Announcements

All

Monty mentioned at the last meeting the topic regarding participation in dealer-only auctions and that DMV was supposed to come back with a comment about what participation meant.

Linda confirmed that there is no separate definition of "participation" in statute or rule. DMV uses the term as defined in the dictionary, which is consistent with our enforcement practices for dealer-only auctions and does not conflict with any statutory interpretation.

Monty asked if standing next to somebody in the arena is defined as participation. Linda said participation in the dictionary is defined as the act of taking part in something. Just being present doesn't mean you're participating in the auction.

Monty says there should be no consumer at the auction able to nudge the dealer. Alex Fraser says it's in the best interest of the auctions to police themselves.

Mike Wagner said there's a bit of a crisis evolving in the tow industry. There is currently no tow company that will tow an RV. It's a problem statewide. RV's are being abandoned and nobody will touch them.

Mary Ann said she doesn't know one dismantler that will take an RV.

Alex Fraser confirmed that he's been seeing a lot of batteries stolen from lots. Batteries can be taken to certain stores for a return fee.

Meeting adjourned at 12:01 pm.