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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILING CAPTION: Acceptable Primary Ownership Documents for the Purpose of Perfecting a Security Interest

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2020 5:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 01/15/2020
TIME: 2:00 PM
OFFICER: Ty Yoder
ADDRESS: DM V Headquarters, Room 361
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NEED FOR THE RULE(S):
OAR 735-020-0010 specifies the documents DM V will consider as primary ownership documents for the purpose of perfecting the security interest in a vehicle. As a result of exposed fraud, DM V is no longer satisfied (confident) that the person submitting a dismantler (wrecker) bill of sale is the owner of the vehicle and entitled to have a title issued in the applicant’s name. A temporary rule adopted on October 22, 2019, is currently in effect. The temporary rule removed the dismantler (wrecker) bill of sale from the list of acceptable primary ownership documents that can be used for the purpose of transferring title, unless the bill of sale met certain requirements. The temporary rule removed a dismantler bill of sale from the list if it is not on a controlled form issued by the jurisdiction, contains information that is unverifiable, or does not contain language regarding the truth and accuracy of the information contained on the form. This rulemaking is proposing to make the temporary rule language permanent.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:
None

FISCAL AND ECONOMIC IMPACT:
See statements below.
COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

DMV is unable to quantify the fiscal and economic impacts other than the fees identified in the second bullet below. The following is a list of potential impacts this rulemaking may have:

- DMV will issue fewer Oregon titles and salvage titles to out-of-state residents because the proposed change no longer enables out-of-state residents to bypass their state’s laws. DMV may generate less revenue as a result of fewer Oregon title and salvage title issuances. DMV employees tasked with issuing Oregon titles and salvage titles will be able to process other title transactions or work on other tasks which may reduce the turnaround time for some transactions.
- If a resident of Oregon purchases a vehicle and only receives a dismantler bill of sale, because the title was surrendered to another state in accordance with the other state’s laws, the resident of Oregon will need to complete the other state’s requirements and obtain an ownership document, as identified in OAR 735-020-0010, from the other state before applying for an Oregon title or salvage title. The current cost of an inspection in the state of Washington is $65 and a Washington vehicle title is $42. Alaska and Hawaii also have issued dismantler bill of sale or similar documents. Their fees may vary depending on taxes and county fees. Additionally, the vehicle may need to be transported from Oregon to the other state which may increase costs for the buyer.
- Dealers and individual buyers that purchase a vehicle whose title was surrendered to another state and subsequently received a bill of sale will no longer be able to bypass that state’s requirements, including vehicle inspections, by obtaining an Oregon title or salvage title. Requiring a business or individual to obtain an acceptable ownership document from the previous state will increase costs because they may be required to pay for an inspection and pay the fee for an ownership document from that state. Additionally, the vehicle may need to be transported between the states for an inspection which may increase costs for the buyer.
- Auction companies may see fewer Oregon bidders for vehicles from Washington (because of proximity) that have a dismantler bill of sale instead of an ownership document listed in OAR 735-020-0010. Oregon residents may not bid on these vehicles because they will need to transport the vehicle to Washington to have an inspection completed and then title the vehicle in Washington before ultimately applying for an Oregon title. Without Oregon bidders, auction companies may receive a lower sales price for these types of vehicles. Additionally, Oregon residents who bid at the auction on one of these vehicles may factor in the additional costs ($107.00) and subsequently submit a reduced bid price.
- Insurance companies may receive a lower price for the vehicles they sell because of fewer Oregon bidders and as a result they may pass those costs onto consumers through increased insurance premiums.

No businesses are subject to the rule. Small businesses may not want to purchase a vehicle if they did not want to go through the other state’s process to obtain an ownership document from that state.

A dismantler, insurance company, auction house or vehicle dealer that is a small business may be affected by the rule, but they are not subject to the rule.
(2)(b) Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: There may be administrative activities required to obtain an acceptable ownership document, but there are no administrative activities directly related to this rulemaking.

**DESCRIPT HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

DMV sent draft rules to 14 organizations representing small businesses. Some small businesses were invited to participate in the Administrative Rule Advisory Committee. Representatives of the businesses were sent on their behalf.

**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES**

**AMEND: 735-020-0010**

**RULE SUMMARY:** The temporary rule removed the dismantler (wrecker) bill of sale from the list of acceptable primary ownership documents that can be used for the purpose of transferring title, unless the bill of sale met certain requirements. The temporary rule removed a dismantler bill of sale from the list if it is not on a controlled form issued by the jurisdiction, contains information that is unverifiable, or does not contain language regarding the truth and accuracy of the information contained on the form. This rulemaking is proposing to make the temporary rule language permanent.

**CHANGES TO RULE:**

735-020-0010
Perfection of Security Interest; Primary Ownership Document ¶

(1) This rule specifies the documents DMV will consider primary ownership documents for the purposes of perfecting a security interest in a vehicle. ¶

(2) Except as provided in section (3) of this rule, a primary ownership document is: ¶

(a) A manufacturer’s certificate of origin (MCO) or equivalent document as described in OAR 735-022-0030 through 735-022-0060. This subsection applies to: ¶

(A) A vehicle or camper built by a manufacturer that has never been titled or registered; and ¶

(B) A vehicle or camper built, assembled, or reconstructed using a component kit that has never been titled or registered. The MCO may only be considered a primary ownership document for the vehicle or camper parts contained in the kit. ¶

(b) A current certificate of title or salvage title issued for a vehicle or camper; or ¶

(c) A Certificate to Obtain Title for a Vehicle (U.S. Government Form SF 97), for a vehicle or camper previously owned by the U.S. Government and where interest is being transferred. ¶

(3) Notwithstanding section (2) of this rule, DMV may, at its discretion, consider other documents to be primary ownership documents when: ¶

(a) DMV is satisfied that the original Oregon title has been lost or destroyed, and that there has been a change in interest; ¶

(b) Interest has been transferred by operation of law under Oregon law, or through court action in a court having jurisdiction over persons or property located in Oregon, and the primary ownership documents described in section (2) of this rule are not available; ¶

(c) The security interest is in a vehicle or camper not manufactured for sale in the U.S., and that is not currently registered or titled in the U.S.; ¶

(d) The security interest is in a vehicle or camper last titled or registered outside the U.S.; or ¶
(e) DMV is satisfied that a primary ownership document described in section (2) of this rule was never issued, is not obtainable, or has been surrendered to another jurisdiction.¶

(4) Documents DMV may determine are primary ownership documents under section (3) of this rule include but are not limited to:¶

(a) A court judgment or decree from a court having jurisdiction over persons or property located in Oregon that awards ownership of a vehicle or camper as a matter of law;¶

(b) A certificate of possessory lien foreclosure as described in OAR 735-020-0012;¶

(c) A completed and signed Inheritance Affidavit (DMV Form 735-516) vesting the interest of a deceased owner in the person designated by all the heirs as the owner of the vehicle or camper;¶

(d) A completed and signed Certificate of Ownership of an Assembled Light Trailer or Heavy Trailer (DMV Form 735-6644) for a trailer built by someone other than a manufacturer;¶

(e) A completed and signed Application for Replacement Title (DMV Form 735-515) or Application for Replacement Salvage Title (DMV Form 735-230) where:¶

(A) The application is accompanied by an Application for Title and Registration (DMV Form 735-226) that includes a release of interest from anyone listed on the original title that will not be listed on the new title; and¶

(B) Any change in interest is of a type not subject to odometer disclosure requirements under ORS 803.102 and OAR 735-028-0000 through 735-028-0100;¶

(f) A completed and signed Certification of Ownership Facts (DMV Form 735-550);¶

(g) An Ownership document issued by the U.S. Armed Forces for a vehicle or camper owned by a member of the U.S. Armed Forces;¶

(h) A salvage title, salvage bill of sale, or, except as provided in section (12) of this rule, a dismantler (wrecker) bill of sale on a vehicle or camper whose title has been surrendered to a jurisdiction; or¶

(i) For a vehicle or camper described under subsections (3)(c) and (d) of this rule:¶

(A) A certificate for export purposes issued by a foreign jurisdiction; or¶

(B) A vehicle or camper registration if the vehicle has been registered but is not currently titled.¶

(5) When the application for notation of a security interest is for a vehicle or camper that is initially being titled as assembled, reconstructed, or a vehicle replica, the primary ownership document must be specific to the frame or unibody.¶

(6) When the application for notation of a security interest is for a vehicle or camper manufactured in more than one stage, the primary ownership document(s) must cover each stage of manufacture.¶

(7) DMV may invalidate a primary ownership document as evidence of ownership if it determines:¶

(a) The document is fraudulent or contains false information; or¶

(b) The document does not show the most current ownership interest in the vehicle or camper.¶

(8) If, after a title has been issued, it is determined that the evidence of ownership is invalid under section (7) of this rule, DMV may cancel the vehicle title. Before a title is cancelled, DMV will send a notice of the proposed cancellation to the vehicle owner or lessee, security interest holder(s) and lessor (if applicable), as listed in DMV records. A cancellation becomes effective 10 days after the date the notice is deposited with the postal service, unless a hearing is requested within that 10-day period. If a timely hearing is requested, the cancellation will be contingent on the outcome of the hearing.¶

(9) A title cancellation under section (8) of this rule automatically invalidates the security interest(s) noted on that title. A new application for notation for perfection of security interest and valid evidence of ownership must be submitted to DMV before security interest in a vehicle can be perfected pursuant to ORS 803.097.¶

(10) DMV will not invalidate a primary ownership document as evidence of ownership based solely on missing title requirements (e.g., missing odometer information, and fees).¶

(11) A document considered by DMV to be a primary ownership document under section (3) of this rule constitutes proof of ownership for purposes of ORS 803.205.¶

[ED. NOTE: Forms referenced are available from the agency.][12] DMV has determined that a dismantler (wrecker) bill of sale provided for the purpose of transferring ownership on a vehicle or camper whose title has been surrendered to another jurisdiction is insufficient proof of ownership if the bill of sale is not on a controlled
form issued by the other jurisdiction, contains information that is unverifiable, or does not contain language regarding the truth and accuracy of information contained on the form.
Statutory/Other Authority: ORS 184.616, 184.619, 801.402, 802.010, 803.097
Statutes/Other Implemented: ORS 801.402, 803.097, 803.205