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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

FILED

08/29/2023 2:07 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Voluntary Odometer Disclosure

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2023 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.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

DMV proposes to amend Oregon Administrative Rule (OAR) 735-028-0000 and repeal OAR 735-028-0005 to bring OAR into alignment with Oregon statute as a result of Oregon Laws 2023, chapter 400, section 24 and 24a (House Bill 2099 (2023)).

Oregon Laws 2023, chapter 400, section 24, amended ORS 803.102 to remove subsection (6), which permitted a person to provide an odometer reading to DMV for a vehicle that is 10 years old or older. Odometer readings are not odometer disclosures because DMV does not validate the odometer reading. Federal law, 49 CFR 580, was amended in 2021 and now requires odometer disclosures until the vehicle is 20 years old for vehicles with a model year of 2011 and newer. The Oregon odometer reading provision in ORS 803.102(6) was out of alignment with the federal regulation until the 2023 statutory amendment.

DMV proposes to amend OAR 735-028-0000 and repeal OAR 735-028-0005 to remove all references and information about odometer readings, also known as voluntary odometer readings.

DMV will continue to collect odometer disclosures until the vehicle becomes exempt from the requirement as provided in OAR 735-028-0010. DMV will discontinue collecting voluntary odometer readings.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Enrolled HB 2099 - <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2099/Enrolled>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rulemaking aligns OAR with Oregon statute, which aligns with federal law, and as a result DMV will no longer

collect voluntary odometer readings. It will be applied regardless of any demographic element, including race. This will not affect racial equity in this state.

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).

(1) Public – There is no cost to comply, the public simply can no longer provide voluntary odometer readings to DMV.

DMV – DMV will save staff time by not entering the voluntary odometer readings and having discussions about it with customers. DMV staff will be able to assist other customers quicker as a result. This time savings is attributed to the passage of the statute and not this rulemaking.

(2)(a), (b) and (c) None

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

DMV sent draft rules to 14 organizations representing small businesses. No responses were received.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

DMV is aligning Oregon Administrative Rule with Oregon statute because of the new law.

RULES PROPOSED:

735-028-0000, 735-028-0005

AMEND: 735-028-0000

RULE SUMMARY: DMV proposes to amend this rule to remove the definition of "voluntary odometer reading."

CHANGES TO RULE:

735-028-0000

Definitions Relating to Odometer Disclosures and Voluntary Odometer Readings ¶¶

As used in OAR 735-028-0000 through 735-028-0100 the following terms apply:¶¶

- (1) "Actual Mileage" means the distance a vehicle has traveled while in operation.¶¶
- (2) "Buyer" refers to the transferee as defined in ORS 803.102 and 49 CFR, Part 580 for the purpose of odometer disclosure.¶¶
- (3) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.¶¶
- (4) "Seller" has the same meaning as "transferor" as that term is defined in ORS 803.102 and 49 CFR, Part 580 for the purpose of odometer disclosure.¶¶
- (5) "Odometer" means a device on a motor vehicle for recording the accumulated total mileage a vehicle has been driven. It does not include a device designed to be reset to zero by the operator for purposes of recording trip mileage.¶¶
- (6) "Odometer Reading" means the mileage indicated on the odometer, excluding any tenths of a mile or kilometer.¶¶
- (7) "Odometer Disclosure" is a written statement required by state or federal law upon a transfer of an interest in motor vehicle, which contains:¶¶

(a) A vehicle description, the odometer reading and a certification as to whether, to the best of the person's knowledge, the reading reflects the actual mileage, mileage in excess of the designed mechanical limit or does not reflect actual mileage; and¶¶

(b) Depending on the type of transaction, any other information required by rule to be on the disclosure.¶¶

(8) "Conforming Title" means a certificate of title or salvage title issued by any state, which contains spaces for odometer information required by 49 CFR, Part 580. Any Oregon title or salvage title issued on or after January 1, 1992, is a conforming title.¶¶

(9) "Nonconforming Title" means a certificate of title issued by any state that does not contain spaces for odometer information required under 49 CFR, Part 580. Any Oregon title issued prior to January 1, 1992, is a nonconforming title.¶¶

(10) "Secure Form" refers to an odometer disclosure and reassignment form or a power of attorney form that includes odometer information, issued by DMV or another jurisdiction that meets or exceeds federal requirements on form and content. The forms incorporate security features to deter and detect counterfeiting or unauthorized reproduction, and make alterations visible to the naked eye.¶¶

~~(11) "Voluntary odometer reading" is an odometer reading provided to DMV on a voluntary basis in connection with a title transaction for a vehicle that is exempt from the odometer disclosure requirements as provided in OAR 735-028-0010.~~

Statutory/Other Authority: ORS 184.619, 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080

Statutes/Other Implemented: ORS 803.102, 803.120, 803.122, 803.124, 803.126, 49 CFR Part 580

REPEAL: 735-028-0005

RULE SUMMARY: DMV proposes to repeal this rule because Oregon laws 2023, chapter 400 amended ORS 803.102 and it no longer permits voluntary odometer readings.

CHANGES TO RULE:

~~735-028-0005~~

~~Voluntary Odometer Reading~~

~~The purpose of this rule is to establish the manner in which a person may provide a voluntary odometer reading to DMV under OAR 735-028-0000 (11).~~

~~(1) A voluntary odometer reading:~~

~~(a) Must be submitted to DMV during the process of a title transaction. A person may submit the voluntary odometer reading by:~~

~~(A) Providing it on the application; or~~

~~(B) Giving it to the DMV representative verbally.~~

~~(b) Must include the date of the reading or the date the reading was received by DMV;~~

~~(c) Must include the following to be recorded on the vehicle record and title or salvage title:~~

~~(A) A reading greater than zero; or~~

~~(B) A reading of zero or greater, if provided with an odometer message as described in subsection (d) of this Section.~~

~~(d) May include an odometer message that states to the best of the knowledge of the person providing the reading that:~~

~~(A) The mileage stated is in excess of the odometer's mechanical limits;~~

~~(B) The reading does not reflect the actual mileage; or~~

~~(C) The odometer is not readable.~~

~~(e) Does not constitute an endorsement by DMV as to the accuracy, completeness, reliability or usefulness of the odometer reading, odometer message or the date of the reading.~~

~~(2) DMV will not attempt to verify the mileage reported for a voluntary odometer reading.~~

~~(3) A person who provides a voluntary odometer reading to DMV is not subject to the certification requirements for an odometer disclosure required under ORS 803.102, 49 CFR, Part 580 or DMV rules.~~

~~Statutory/Other Authority: ORS 184.619, 802.010, 802.200, 803.102, 803.120~~

~~Statutes/Other Implemented: ORS 803.102, 803.120~~