

Dealer Details

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Newsletter of the DMV Business Regulation Section

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Form 735-7022 (11-05)

Dealers may see flood of hurricane flood cars

More than half a million cars may have been ruined by flooding from Hurricanes Katrina and Rita along the Gulf Coast, according to estimates by the National Automobile Dealers Association. Hurricane Wilma may add more.

That may be thousands of miles away, but some of those cars may work their way to Oregon, DMV warns.

“Moving totaled cars from state to state and concealing their histories is a national problem, even without hurricanes,” said Chris Ratliff, manager of the DMV Business Regulation Unit.

The number of vehicles damaged by the recent hurricanes is so large that the National Insurance Crime Bureau has created a database of vehicles affected by Katrina and Rita. The NICB is allowing the public to check Vehicle Identification Numbers at www.nicb.org.

Submersion in water does severe damage, particularly when water enters the passenger compartment:

- Modern vehicles are full of electronics, controlling the engine, transmission, emission control devices, dash board, warning lights, external lights and entertainment systems. These chips may be located inside the dash or under seats. Failure of a chip could result in damage to the engine, for example.

- Cleaning may improve the appearance of a flooded car’s interior, but mold and residues may remain.

- The breach of Lake Ponchartrain sent saltwater into New Orleans after Hurricane Katrina. The effects of salt corrosion may take time to show up as failures in electronic systems and engine components.

There is no guaranteed way to avoid buying a flood-damaged car, yet dealers can reduce their risks:

- Pay close attention to out-of-state vehicles, even if they are not from Gulf Coast states. Some vehicles may have been moved through other states in an attempt to “wash” titles – avoid branding that indicates damage or declaration as total loss.

- Inspect the vehicle. Look for signs of water, mud, corrosion or residue in carpet, upholstery, the glove box, inside the dash if that’s easy to examine, inside tail light fixtures, etc.

- Check the VIN at www.nicb.org or against online services such as Carfax or Experian.

Dealers who later discover that the seller did not disclose information about the condition of a vehicle, such as flood damage, may find it difficult to undo the transaction.

SPECIAL 2005 LEGISLATIVE EDITION

Review of new laws that affect vehicle businesses

Several new laws are taking effect that will have impacts on vehicle dealers and vehicle-associated businesses.

This edition of *Dealer Details* summarizes legislation from the 2005 Oregon

Legislature under House Bills (HB) and Senate Bills (SB).

The summaries start on **Page 3**.

For the full text of a bill, as enacted, visit www.leg.state.or.us/bills_laws/.

Dealer handbook updates

The October 2005 revision of the Title and Registration Handbook is available to view, print or copy at DMV's Web site www.OregonDMV.com. This revision is an update to the July 2005 Handbook.

Dealers who maintain a printed copy of the Handbook need only print the revised cover page and chapters listed below. Remove the previous version of these pages and insert the revised pages into the printed Handbook.

The supply of printed copies of the Handbook has been exhausted, and there are no more available at the ODOT/DMV Storeroom.

Dealers who do not have access to the Internet may order a copy of and updates to the Handbook in CD format through Oregon Independent Auto Dealers Association (OIADA). Contact OIADA at 1-800-447-0302 or email at info@OIADA.com for more information about ordering.

DMV revises the Handbook at www.OregonDMV.com as needed on a quarterly basis. Revisions are announced in *Dealer Details*, or dealers can just check for updates on the Web site.

The next Handbook update will be January 2006. The January 2006 version will incorporate further changes to statute, rule and DMV policy due to the 2005 legislative session.

The January 2006 revision also will eliminate the current Chapter C (Application for Title and Registration for Manufactured Structures and Non-motorized Vehicles, Form 222).

Administration of manufactured structures has been transferred to the Building Codes Division of the Department of Consumer of Business Services. Therefore, the next revision will reorganize the entire Handbook, so dealers need to print or order an entire new Handbook with the January 2006 revision.

Sections of the October 2005 Handbook revisions are listed below.

Cover Page

Chapter B, Application for Title and Registration, Form 226 – An example of the newest Form 226, Application for Title and Registration, has been added.

Chapter J, Security Interest Perfection – HB 2017 became effective Oct. 17, 2005. This bill extended the time to perfect a security interest from 20 days to 30 days.

Chapter K, Damaged/Totaled Vehicles – An Oregon title with a brand of "totaled" will be issued when the application includes an out-of-state title or other ownership document that indicates an insurer has taken possession of a vehicle, or when an insurer is shown as an interim owner on any reassignment area submitted with the title transaction. Examples of the new (as of August 2005) Oregon salvage title and of the newest Form 229, Application for Salvage Title, are included.

Chapter M, Vehicle Types – SB 445 changed the weight portion of the definition of the Class II ATV. The portion of the definition pertaining to weight is: a vehicle that is more than 800 pounds.

Chapter P, Tow/Recovery Vehicles – As a result of House Bill 2114, if an Oregon licensed towler sells a vehicle to an Oregon licensed wrecker, the unexpired year stickers do not need to be removed.

Chapter R, Insurers – A policy change effective Oct. 17, 2005, states that the date of total loss must be provided when an insurer declares the vehicle totaled.

Chapter S, Dealers – As a result of House Bill 2114, if an Oregon licensed dealer sells a vehicle to an Oregon licensed wrecker, the unexpired year stickers do not need to be removed.

– Margaret Stephens
Vehicle Programs

Oregon dealers warned about lending scam

The executive directors of the Oregon Independent Auto Dealers Association have issued a warning to all Oregon vehicle dealers about a lending scam, OIADA announced.

"If you are contacted by anyone representing a company going by the name of Instant Funding Systems, do not give them any money, any of your financial information or your customers' financial information," the OIADA said in a statement. "This is a total scam. If you are contacted by them, get as much information as possible."

"The company is contacting dealers and requesting them to send a deposit of several thousand dollars to establish an account and in return will be able to fund vehicle loans at lower rates," the OIADA statement said.

OIADA was contacted by the director of the Virginia IADA, who confirmed that this scam was taking place in that state. Kansas, Oklahoma and Missouri IADAs also have confirmed activity in their states.

OIADA contacted the Oregon Department of Justice and was told this company was operating with an address at Jantzen Beach last year but is now operating out of Vancouver, Wash.

OIADA urges dealers contacted by this company to forward any information to Investigator S. Helton at (503) 279-2079, or send the information to Office of the U.S. Postal Inspector by mail to 921 SW Washington St, Suite 790, Portland, OR 97205, or by fax to (503) 224-2435.

– Jamie Wodziewoda
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Oregon Independent Auto
Dealers Association

SPECIAL LEGISLATIVE REVIEW



Several new laws are taking effect that will have impacts on vehicle dealers and vehicle-associated businesses.

This edition of *Dealer Details* summarizes legislation from the 2005 Oregon Legislature under House Bills (HB) and

Senate Bills (SB). The summaries are brief.

For the full text of a bill, as enacted,

visit www.leg.state.or.us/bills_laws/.

For more information about DMV policies and procedures, visit the DMV Web site at www.OregonDMV.com, or call (503) 945-5000 or (503) 299-9999 (Portland Metro Area).

SB 997: Electronic registration

Effective Jan. 1, 2006

Vehicle dealers will be able to charge customers a fee of up to \$75 when using Electronic Vehicle Registration through the company CVR.

Prior to Senate Bill 997, a dealer could charge a customer \$50 for processing DMV transactions electronically or if they were submitted directly to DMV.

Dealers still will be able to collect

\$50 if the transaction is being submitted directly to DMV.

If a dealer is collecting the \$75 for processing the customer's transaction electronically, the dealer must inform the customer that they are being charged the \$75.

The customer will then have the choice of having the transaction processed electronically or not.

DMV Business Regulation investi-

gators will look for violations of the dealer not informing the customer that they are being charged the \$75.

If evidence is discovered that the dealer has not informed the customer when \$75 has been collected, then the investigator may impose civil penalties upon the dealer.

Investigators will be looking for this during both inspections and complaint-driven investigations.

SB 998: Vehicle weight

Effective Jan. 1, 2006

Senate Bill 998 will raise the minimum weight at which certain large vehicles must be registered by weight rather than as a passenger vehicle.

The bill increases that weight from 8,001 pounds to 10,001 pounds.

This change affects some vehicles that have been registered with T plates (trucks), CN plates (charitable/non-profit), PF plates (permanent fleet) and B plates (noncommercial buses).

The bill does *not* apply to truck tractors or commercial buses.

Under the new law, a customer with a vehicle with a loaded or combined weight of 10,001 pounds or more will be required to establish a registration weight

and to pay the appropriate registration fee according to the existing fee schedules for that vehicle type.

A customer with a vehicle that has a loaded or combined weight of 10,000 pounds or less will be able to apply for passenger registration.

In order to do this, the customer or dealer will need to complete an Application for Title and Registration, Form 735-226, or an Application for Registration, Form 735-268, and submit it to DMV along with \$59 (\$54 registration fee plus \$5 new-plate fee) and any other applicable fees. The customer will receive a new two-year passenger registration period for the vehicle.

If the application is for a vehicle reg-

istered as another type of vehicle, the applicant will need to indicate "change of class" in the Remarks section of the form.

DMV will not ask the customer for proof of the registration weight. The customer's signature on either application will act as certification that the information provided is true and correct.

With passage of this bill, changes to ORS 803.600 dealing with heavy and light vehicle trip permits inadvertently were overlooked.

However, based on the intent of this law, effective Jan. 1, 2006, customers with a passenger vehicle that is 10,000 pounds or less will be allowed to purchase a Light Vehicle Trip Permit.

HBs 2429 and 2507: Dismantler certificates

Effective Jan. 1, 2006

Dismantler Certificates will be valid for three years, beginning with the certificates issued as of Jan. 1, 2006.

The fee for the three-year period will be \$450 for the certificate. A supplemental dismantler location certificate will cost \$90. The fee for changing or duplicating an active, existing dismantler certificate will be \$30. Additionally, the bond required for an original or renewal of a dismantler certificate has increased from \$2,000 to \$10,000.

When a dismantler takes in a vehicle, the dismantler is required to submit the Oregon title or other ownership document to DMV with DMV Form 270.

Dismantlers may sell only whole vehicles to other dismantlers, and they are required to submit a Form 270 to DMV and provide a bill of sale to the dismantler that is purchasing the vehicle. A dismantler may sell a whole vehicle to the public only if the dismantler also possesses a vehicle dealer certificate.

DMV's Business Regulation Unit will conduct routine inspections of dismantlers and can impose civil penalties of up to \$5,000 if a dismantler is not in compliance with the new provisions.

During inspections, DMV will be verifying that dismantlers have not:

- Acquired a motor vehicle or major component without first obtaining a certificate of sale and, if applicable, a title or other ownership document.

- Possessed, sold or disposed of a motor vehicle or any part of the vehicle knowing that it was stolen.

- Sold, bought, received, concealed, possessed or disposed of a motor vehicle or any part of a motor vehicle that had a missing, defaced, intentionally altered or covered vehicle identification number, unless they were directed to do so by law enforcement.

- Committed forgery or mistated a material fact relating to a certificate of title, registration or other document related to a motor vehicle that had been reassembled with parts of other motor

vehicles.

- Fraudulently obtained, created or modified a dismantler certificate.

- Failed to maintain records at the certified place of business for three years from the date of acquisition of a motor vehicle that describe and identify the vehicle, including:

1. Title number.
2. State where the vehicle was last registered.
3. Last known license plate number.
4. Year, make and model.
5. VIN.
6. Date acquired.
7. Stock or yard number assigned to the vehicle.

- Failed to maintain records at the place of business for three years from the date of acquisition of a major component part that describes and identifies the part, including:

1. Characteristics of the part.
2. Stock or yard number assigned to the part.
3. VIN of the vehicle from which the part came.

- Committed a dishonest act or omission during the sale of a motor vehicle or major component part that causes a loss to the purchaser.

- Removed parts from or destroyed a motor vehicle prior to obtaining an ownership record or salvage title certificate for the vehicle.

- Failed to demolish the registration plates of a wrecked vehicle at the time the ownership record was received.

- Failed to notify DMV of any changes in the information provided in their application for a dismantler certificate within 30 days of the change.

- Failed to furnish a written report to the DMV after a wrecked vehicle is dismantled or destroyed.

The Wrecker's Vehicle Notice, Form 270, has been renamed as Dismantler's Vehicle Notice. In addition, the following changes have been made:

- The form must be submitted to DMV, with the ownership document, within 30 days of a dismantler obtaining the ownership document, rather than taking possession of the vehicle.

- A dismantler is no longer required to certify whether or not the vehicle met the definition of a totaled vehicle prior to being wrecked, dismantled, disassembled or substantially altered. The information is no longer required because a vehicle disposed of to a dismantler cannot be sold as a whole vehicle to anyone other than another dismantler.

- A dismantler is not required to apply for a salvage title in order to sell the frame or unibody from a vehicle in which the title already has been surrendered to DMV. The dismantler will provide a bill of sale to the purchaser.

- The Instructions for Wrecker's Notice, Form 270A, has been discontinued. Any necessary instructions for the Dismantler's Notice, Form 270, is included on the Form 270 itself.

The revised Dismantler's Vehicle Notice, Form 270, will be available on Jan. 2, 2006, by accessing DMV's Web site at: www.oregondmv.com. The online version of the form has been made fillable. The printed version will be available from DMV's storeroom after Dec. 12, 2005. (Do not use the form until after Jan. 1, 2006.)

To order individual DMV forms, send a request to DMV at ODOT Storeroom, DMV Forms, 455 Airport Rd., Bldg. K, Salem OR 97301-5348, or fax your request to (503) 986-2801.

DMV Business Regulation also will be enforcing provisions concerning air bags that contain sodium azide.

Motor vehicle dismantlers will be required to remove any air bag containing sodium azide from a vehicle before the vehicle is wrecked or dismantled. In addition, dismantlers must ensure that an air bag containing sodium azide, which has been removed from a vehicle, is deployed within seven days of removal unless the airbag is properly stored.

Violations of these provisions are Class D violations. If a dismantler is assessed two or more Class D violations, future offenses will be Class C misdemeanors.

HB 2740: Broker fees

Effective Jan. 1, 2006

Under House Bill 2740, vehicle brokers will be prohibited from collecting a fee for services from both a buyer and a seller or a lessor and a lessee for the same transaction.

At the time of entering into a brokerage agreement, a broker must provide the buyer or lessee with a written disclosure that includes the following information:

- A description of the service being provided.
- A description of the fees and deposits a broker will charge.
- A description of how the broker will charge and collect the fees.
- A statement indicating whether or not the broker is responsible for warranty service work.

In addition to providing the written disclosure, a motor vehicle broker must provide a statement to the buyer or lessee if the broker adds a fee for brokerage services to the purchase price or capitalized cost of the vehicle and the fee was negotiated with the seller or lessor on behalf of the buyer or lessee.

This statement must:

- Inform the buyer or lessee that fees for brokerage services have

been added to the purchase price.

- State that the fees for brokerage services will be paid to the motor vehicle broker by the seller or lessor.
- Be clear and not be printed in less than 14-point bold type.

Also under HB 2740, a motor vehicle broker may not:

- Calculate any fee charged to the buyer or lessee based on the amount saved on the purchase or lease of the motor vehicle.
- Collect fees for brokerage services from both a buyer and seller or a lessee and lessor for the same transaction.
- Represent that the broker is providing a service for no fee unless the broker is not and will not be receiving any compensation.
- Collect fees built into the purchase price of the vehicle and make any representation that the broker will be compensated by the seller or lessor.

When a broker is representing a buyer or lessee, the broker can act only as an agent for the buyer or lessee.

If a motor vehicle broker maintains a dealer inventory, the motor vehicle broker:

- Shall inform the buyer or

lessee if the broker is acting as a dealer or a broker for the transaction.

- May not do any of the following if the broker enters into an agreement to represent the buyer or lessee as a broker and later sells the vehicle from the broker's inventory.

A. Act as an agent for the buyer or lessee.

B. Charge the buyer or lessee a fee for brokerage services.

C. Purchase or lease a motor vehicle on behalf of a buyer or lessee and then sell or lease that vehicle to the buyer or lessee as a motor vehicle dealer.

D. Sell a motor vehicle to a buyer or lease a motor vehicle to a lessee, unless the motor vehicle broker provides the buyer or lessee with a clear and conspicuous written disclosure that is signed by the buyer or lessee and that states the following:

- The broker is no longer acting as an agent for the buyer or lessee.
- The broker is acting as a motor vehicle dealer with whom the buyer or lessee is free to negotiate the purchase price or lease terms of the motor vehicle.

HB 2741: Leasing companies

Effective Jan. 1, 2006

House Bill 2741 will allow a rental or leasing company to elect to register new vehicles owned by the company for a one- or two-year registration period.

This shorter initial registration is limited to passenger vehicles only, including electric and hybrid vehicles.

A rental or leasing company electing initial registration of vehicles for either one or two years will pay a \$1 per trans-

action service fee. Subsequent renewals or re-registrations will be biennial.

The one- or two-year initial registration will be available only for rented/leased vehicles registered in the rental/leasing company's name.

ORS 221.275 defines a rental/leasing company as:

“Rental or leasing company” means any person engaged in the business of renting or leasing motor vehicles to the

public.

In other words, the vehicle must be registered in the name of a business, not an individual.

Under this program, the registration fee for one-year registration will be \$28 (\$27 registration fee plus \$1 service fee).

The registration fee for this type of two-year registration will be \$55 (\$54 registration fee plus \$1 service fee).

HB 2825: Specialty plate transfer

Effective: Jan. 1, 2006

House Bill 2825 allows the transfer of certain specialty registration plates from one vehicle to another, even if the plates are no longer issued, and without requiring them to be converted to custom registration plates.

Prior to this, specialty plates that are no longer issued had to be customized plates in order to be transferred.

The following are the specialty plates no longer being issued that are impacted by this bill: Oregon Trail plates; ham-radio motor home plates on Salmon, Crater Lake, Cultural Trust backgrounds; and group motor home and travel trailer plates (group plates include university,



military and various other nonprofit-sponsored plates).

Customers who want to transfer their Oregon Trail Plates *before* Jan. 1, 2006, still need to pay the converted custom

fee of \$50 in addition to any applicable plate-transfer and registration fees. Customers who are transferring their Oregon Trail plates at a non-renewal period and have previously paid the \$50 custom registration fee

will not be required to pay the fee again.

After Jan. 1, 2006, customers can transfer such plates without converting them to custom and without paying the \$50 custom registration fee.

HB 3088: Dealer plates

Effective Jan. 1, 2006

House Bill 3088 removed the section from ORS 822.040 that prohibited a vehicle dealer from using dealer plates

on vehicles titled and registered outside Oregon.

Dealers will be able use their dealer plates to transport out-of-state vehicles

to their business locations.

However, dealers still will be required to remove the out-of-state plates when they offer such vehicles for sale.

HB 3089: Vehicle display

Effective Jan. 1, 2006

Under House Bill 3089, vehicle dealers will be able to display vehicles for advertising purposes in a place other than where their business is located without having to obtain a vehicle dealer supplemental location certificate.

In order to place a vehicle on display in this way, vehicle dealers will be required to ensure:

- There is a signed agreement between them and the owner of the property where the vehicle is

being displayed. This agreement must contain information indicating:

1. The vehicle is present for an advertising promotion only.
2. The processing of any documents or other activities required for purchasing a vehicle must be done at the dealer's place of business.

Dealers will need to create this agreement and make sure it has all of the necessary information.

- The vehicle on display is marked with their name, contact information, and a notice that indicates the vehicle is being displayed for advertising purposes only.
- While displaying the vehicle they do not violate any zoning laws or ordinances.
- That a member of their staff (including the dealer) does not remain with the vehicle unless it is being moved out of the display area.