

Dealer Details

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Consignment sales fall under special laws

Dealers who sell consignment vehicles the same way they deal with any other vehicle in their inventory probably are running afoul of Oregon law.

When dealers sell vehicles on consignment, they need to follow a checklist of responsibilities that govern these types of sales.

One dealer learned the hard way when the Oregon Department of Justice settled a case that focused on consignment practices. In the settlement, the dealer agreed to pay more than \$30,000 in refunds to consumers and reimbursement of costs to DOJ.

To prevent conflicts with state law, dealers should review their practices to ensure they are in compliance with the laws relating to consignments. Oregon law (ORS 822.060) requires, in part, dealers have:

- Proof that the consignor is the registered owner, security interest holder or lessor of the vehicle.
- A written agreement covering the terms of the consignment. A copy must be provided to the consignor.
- The disposition of funds agreed to in writing at the time the consignment is taken.

In addition, Oregon law requires dealers to pay the consignor within 10 days of the sale and to provide the buyer with a disclosure in writing. The disclosure must describe the vehicle and list the name on the title and any security interest holders shown.

Some dealers are not providing the disclosure and instead are showing themselves as the purchaser and then treating the vehicle as one sold from



their inventory rather than a consignment. The disclosure required for consignment sales still must be provided in cases where the "purchase" by the dealer is simultaneous with the resale.

An exception is available if the dealer decides to buy the vehicle when no customer has yet offered to purchase it. It is no longer considered a consignment if the dealer decides to purchase the vehicle from the consignor, properly places it in its inventory, and then offers it for sale. Then when the dealer sells vehicle, the consignment disclosure is not required.

Also, according to the Oregon Attorney General's office, the dealer must disclose the offering price to a consumer if the dealer asks the seller of the consigned vehicle to accept less than the agreed-upon consignment price. Failure to disclose the offering price in these cases may result in action under the Unlawful Trade Practices Act.

– Rick Parsons
Business Regulation

Oregon dealer handbook updates available

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

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

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

References to Form 6928, Odometer Disclosure, and "conforming" and "non-conforming" titles have been deleted. Form 6928 has been deleted and is no longer available. **Please recycle any copies of Form 6928 on hand.**

Titles for vehicles new enough to be subject to odometer disclosures are now

issued on "conforming" titles (which have a space on the back for seller and buyer to disclose the odometer reading). If a separate disclosure form is needed, a secure form must be used. The proper form is Form 403, Secure Odometer Disclosure/Reassignment.

Summary of the April 2005 revisions:

Preface: Deletes references to Form 6928, Odometer Disclosure.

Chapter H – Operation of Law/Trusts: Oregon DMV may accept another state's inheritance affidavit form for estates settled in Oregon if the out-of-state form does not refer to another state's laws and contains all required information.

References to Form 6928, Odometer Disclosure, and "conforming" and "non-conforming" titles have been deleted.

Chapter I, Odometer Disclosure Requirements: References to Form 6928, Odometer Disclosure, and "conforming" and "non-conforming" titles have been deleted.

Chapter L – Registration: Dealers can accept title and registration transactions for government agencies. This chapter describes requirements for E plates.

The Military Department phone number for National Guard members to call has been updated.

A clarification regarding which type of vehicles may have Disabled Veteran or Ex-Pow plates has been added.

Chapter N – Fees: Provides fee information for government vehicle registration.

Chapter O – Model, Makes, and Body Styles: The make lists have been updated.

Index: References have been added for POA's, Form 6436, and government vehicle registration transactions.

References to Form 6928 and "conforming" and "non-conforming" titles have been deleted.

– Margaret Stephens
Vehicle Programs

Mobile home program moves to another agency

The business of titles, trip permits and dealer licensing for mobile homes is going mobile.

These services are moving from DMV to the Building Codes Division (BCD) of the Department of Consumer and Business Services as of May 1. The transfer is a result of Senate Bill 468 from the 2003 Oregon Legislature.

Oregon consumers and businesses that purchase, move or otherwise change the status of a mobile home or other manufactured structure must go to their county assessor's office. The assessor will process the transaction on behalf of BCD.

Buyers of new homes will go through the dealer and/or a title/escrow company to complete the process.

As of May 1, 2005, DMV will no

longer:

- issue titles and registrations for manufactured structures;
- provide duplicate or transferred titles for manufactured structures;
- issue or replace manufactured structure X plates;
- process title exemptions for manufactured structures;
- license manufactured structure dealers;
- regulate manufactured structure dealers;
- and issue trip permits for manufactured structures.

BCD is taking on all those functions.

As a result, DMV Form 222, Application for Title and Registration of Manufactured Structures and Non-motorized Vehicles is obsolete as of May

1. Starting May 1, for all vehicles, both motorized and non-motorized, dealers should use DMV Form 226, Application for Title and Registration.

To obtain a supply of this form, please submit a request to the ODOT Store-room or download Form 226 from DMV's Web site at www.OregonDMV.com.

For more information about the manufactured structure program, contact BCD in Salem at 503-373-1309 or visit the agency's Web site at www.bcd.oregon.gov/lois.

For DMV information, call (503) 945-5000 or in the Portland metropolitan area (503) 299-9999, or visit www.OregonDMV.com.

– Mary Liedtke
Vehicle Programs

Oregon ranks top in nation in motorcycle programs

Oregon may be the best state for first-time motorcycle riders.

The state's motorcycle safety program ranks as the best in the nation, according to a study sponsored by the National Highway Traffic Safety Administration.

Oregon scored highest in the 47 states surveyed in three categories of program administration, rider education and motorcycle licensing, according to the study of best practices conducted for NHTSA by the American Institutes for Research.

The preliminary results of the study were published in the *Journal of Safety Research* (www.nsc.org/lrs/res/jsr.htm), although NHTSA (www.nhtsa.dot.gov) has not yet released the final report.

"This is confirmation that the TEAM OREGON Motorcycle Safety Program is providing riders exactly what they need to ride safely in Oregon's unique geography," said Stan Porter, motorcycle and vehicle safety coordinator for the Transportation Safety Division of the Oregon Department of Transportation.

The TEAM OREGON program was developed with Oregon rider input and continued support with Oregon State University, which conducts day-to-day operations of the rider education courses with a grant through the Safety Division. DMV administers the motorcycle licensing program.

Find out more about TEAM OREGON at http://teamoregon.orst.edu/to_web/index.shtml.

— David House
DMV

Make sure you're really dealing with fellow dealer

An old scam recently caught several dealers off guard for a costly lesson.

This confidence swindle involves an individual posing as a licensed dealer or representative of a licensed dealer to buy vehicles from dealers and then immediately resell them to other dealers or individuals.

When the checks bounce, the selling dealer often loses both the money and the vehicles.

The Uniform Commercial Code and criminal theft statutes generally protect the good-faith purchaser.

However, if a dealer sells a vehicle and takes a bogus check, the dealer is likely to end up the victim of the theft.

Even if the dealer reports the vehicle as stolen, courts might award ownership of the vehicle to the newest buyer if the vehicle is resold before the first dealer recovers it.

Dealers can protect themselves from this kind of scam by knowing who they are dealing with.

The DMV Web site lists current, suspended, cancelled, revoked, and ex-

pired Oregon vehicle dealers. To search the lists, visit www.OregonDMV.com and click on "Business Regulation and Dealers."

Dealers who don't have access to the Internet may call DMV's Business Licensing section in Salem at (503) 945-5052 to inquire about an individual's or business's license status.

Dealers also may ask the individual to see a copy of his or her dealer license, or the license of the dealer the individual claims to represent.

Even if a dealer has dealt with an individual regularly, it might be a good idea to check periodically on the status of the license.

When checking, it's a good practice to get the phone number for the dealer either in the phone book or from the DMV rather than to use a phone number provided by the individual. That way, dealers will know that they are getting the correct contact information for the dealer license holder.

— Rick Parsons
Business Regulation

In brief

OVDA approved as education provider

The Oregon Vehicle Dealer Association is an education provider, now that the Oregon Dealer Advisory Committee has approved its application.

The association has been an approved provider as of March 31. For more information, visit its Web site www.oregonvda.com, or call the association in Salem at 503-399-9199.

Direct customers to field office, not headquarters

The customer service desk at DMV headquarters no longer accepts transactions that include payments. Dealers should direct customers to take DMV paperwork and payments to a DMV field office instead of the headquarters.

The Business Regulation Office at DMV headquarters is unchanged. It will continue to accept dealer-submitted renewals, license corrections and payments in person or by mail.

— Staff
Business Regulation

Unlicensed dealer

Dealer	City	Amount
Jon Patrick Rotter	Newberg	\$20,000

Note: Fines and sanctions for dealers and unlicensed dealers may not reflect settlements.

Oregon Dealer Advisory Committee Meeting Dates

The Oregon Dealer Advisory Committee meets every other month at DMV Headquarters, 1905 Lana Ave. NE, Salem.

All meetings are held from 9 a.m. to noon in DMV Conference Room 382.

Here are the meeting dates for the rest of 2005:

- May 26
- July 28
- September 29
- December 1

'05 ODAC Members

Lisa Larkin
ODAC Chair 2005
 Northwest Auto Auction
 Auto Auction Rep.

Bill Mathey
Vice Chair 2005
 Wentworth Group
 New Car Dealer Rep.

Art Ebelmesser
 DOJ - Financial Fraud
 General Public Rep.

Steve Curry
 Heritage Motors
 Used Car Dealer Rep.

Mary Davis
 Thomason Auto Group
 Office Management Rep.

Mark Forcum
 Foster Auto Parts Inc
 Wrecking Yards Rep.

Paul G. Gustafson
 Auto Save
 General Public Rep.

Michael Wagner
 Santiam Enterprises Inc.
 Tow Company Rep.

Don Lulay
 Lulay's Car Connection
 Used Car Dealer Rep.

Mary Ann Trout
 Hillsboro Auto Wrecking
 Wrecking Yards Rep.

Roger L. Kirschner
 Highway Trailer Sales
 and Service
 Recreational Vehicle Rep.

David Withnell
 Withnell Motor Co.
 New Car Dealer Rep.



Dealer Sanctions

Dealer	City	Violations Found	Offense Count	Amount
Suspensions/Cancellations				
Paul G Sherbahn dba A Class Cars	Eugene	Failure to provide a means of public contact Failure to display an exterior sign Failure to obtain a corrected dealer certificate	2 2 1	\$250 \$250 \$500
Auto Showcase Inc dba McKenzie Truck and Auto Sales	Eugene	Failure to provide a means of public contact Failure to display an exterior sign	1 1	\$500
A Plus Auto Wholesale Inc	Milwaukie	Failure to conspicuously display dealer's certificate Failure to satisfy interest in a vehicle within 15 days	1	\$21,000
Civil Penalties				
Hillsboro Automotive Group Inc dba Hillsboro Chrysler Jeep	Hillsboro	Failure to satisfy interest in a vehicle within 15 days Failure to supply ownership documents to buyer within 25 days	2 2	\$1,000 \$250
Centennial Enterprises Inc dba Gateway Auto Sales	Portland	Failure to satisfy interest in a vehicle within 15 days	3	\$1,000
Virginia Vernon Real Estate Inc	Lakeview	Failure to pay consignee within 10 days Late Renewal	1 1	\$500 \$100
McRobert Motor Co Inc dba Gresham Ford	Gresham	Failure to satisfy interest in a vehicle within 15 days	1	\$4,000
Bob Ephrem dba Bobby's Auto Sales	Portland	Failure to supply ownership documents to buyer within 25 days	3	\$500
JK Milwaukie LLC dba Premier Mazda	Milwaukie	Failure to satisfy interest in a vehicle within 15 days	1	\$2,000
Donald K McNeil dba North Coast RV Center	Tillamook	Late Renewal	1	\$100
Shelley and William Egan dba R B's		Failure to pay consignee within 10 days	2	\$1,000
Jason Evans dba Premier Wholesale Auto	Salem	Failure to furnish certificate of title to buyer within 25 days	1	\$1,000
Top O Hill Quality RV Inc (Probation and Civil Penalty)	Pleas. Hill	Late Renewal	1	\$100
	Aurora	Failure to pay consignee within 10 days	5	\$5,000