

095 John McCulley Executive Secretary, Oregon Fairs Association. Comments on his concerns with SB 214.

115 Katie Cannon Director of the Oregon State Fair. Notes her support for the -1 amendments.

**The following prepared testimony is submitted for the record without public testimony:**

Harold Scoggins Written testimony on SB 214 (**EXHIBIT R**).

127 Chair Metsger Closes public hearing on SB 214. Opens a work session on SB 214.

**SB 214 – WORK SESSION**

144 Sen. B. Starr **MOTION: Moves to ADOPT SB 214-1 amendments dated 3/30/05.**

147 **VOTE: 4-0-1**  
**EXCUSED: 1 - Monnes Anderson**  
 Chair Metsger **Hearing no objection, declares the motion CARRIED.**

148 Sen. B. Starr **MOTION: Moves SB 214 to the floor with a DO PASS AS AMENDED recommendation.**

149 **VOTE: 4-0-1**  
**EXCUSED: 1 - Monnes Anderson**  
 Chair Metsger **Hearing no objection, declares the motion CARRIED.**  
**SEN. KRUSE will lead discussion on the floor.**

157 Chair Metsger Closes work session on SB 214. Opens a public hearing on SB 997.

**SB 997 – PUBLIC HEARING**

160 Darrell Fuller New Car Dealers Association. Explains the measure and proposed the -1 amendment (**EXHIBIT S**) and written testimony (**EXHIBIT T**). Notes there are some drafting problems with the current amendments that will be corrected as soon as possible.

200 Eva Tayrose Financial Fraud/Consumer Protection Section, Oregon Department of Justice (DOJ). Supports the intent of the measure, but relates that a few changes are still needed.

227 Chair Metsger Asks if a consumer is informed of the amount charged for vehicle transfer fee.

232 Fuller Replies that fee disclosure is required.

235 Sen. Deckert Observes that they may want to move this along in the process and make the changes in the other chamber.

240 Chair Metsger Notes they will wait for the amendments, before moving it forward. Closes the public hearing on SB 997. Adjourns the committee at 2:50 p.m.

**EXHIBIT SUMMARY**

- A. SB 327, - 1 amendments, staff, 1 p
- B. SB 327, Written testimony, Jan Amling, 3 pp
- C. SB 327, Written testimony, Lewis Finley, 7 pp
- D. SB 413, - 1 amendments, staff, 2 pp
- E. SB 1017, Written testimony, Jim Denham, 2 pp
- F. SB 1017, Written testimony, Ed Finklea, 4 pp
- G. SB 1017, PUC Opinion Paper, Bonnie Tatom, 1 p
- H. SB 1017, Written testimony, Gary Bauer, 2 pp
- I. SB 55, -2 amendments, staff, 14 pp
- J. SB 55, Written testimony, Dan Linscheid, 1 p

370 Sen. B. Starr **MOTION: Moves to ADOPT SB 211-2 amendments dated 4/7/05.**

373 **VOTE: 4-0-1**  
**EXCUSED: 1 - Deckert**  
**Hearing no objection, declares the motion CARRIED.**

376 Chair Metsger  
Sen. B. Starr **MOTION: Moves SB 211 to the floor with a DO PASS AS AMENDED recommendation.**

378 **VOTE: 5-0-0**  
**Hearing no objection, declares the motion CARRIED.**  
**SEN. METSGER will lead discussion on the floor.**

382 Chair Metsger Closes work session SB 211. Opens a work session on SB 212.

**SB 212 – WORK SESSION**

405 Van Winkle Provides an overview of the measure.

415 Cheryl Pellegrini Begins to offer the background fn the measure.

**TAPE 57, B**

005 Pellegrini Assistant Attorney General, Department of Justice. Continues to discuss the measure. Submits a letter from Charles Harwood (**EXHIBIT Q**).

039 Sen. B. Starr **MOTION: Moves SB 212 to the floor with a DO PASS recommendation.**

049 **VOTE: 4-1-0**  
**AYE: 4 - Deckert, Monnes Anderson, Starr B., Metsger**  
**NAY: 1 - Atkinson**  
**The motion CARRIES.**  
**SEN. METSGER will lead discussion on the floor.**

051 Chair Metsger Closes the work session on SB 212. Opens a work session on SB 210.

**SB 210 – WORK SESSION**

053 Sen. B. Starr **MOTION: Moves to ADOPT SB 210-2 amendments dated 3/31/05.**

055 **VOTE: 4-1-0**  
**AYE: 4 - Atkinson, Deckert, Starr B., Metsger**  
**NAY: 1 - Monnes Anderson**  
**The motion CARRIES.**

057 Chair Metsger  
Chair Metsger **MOTION: Moves SB 210 to the floor with a DO PASS AS AMENDED recommendation.**

060 Sen. Atkinson Remarks that he will oppose this measure.

066 **VOTE: 3-2-0**  
**AYE: 3 - Deckert, Starr B., Metsger**  
**NAY: 2 - Atkinson, Monnes Anderson**  
**The motion CARRIES.**  
**SEN. METSGER will lead discussion on the floor.**

068 Chair Metsger Closes the work session on SB 210. Opens a work session on SB 997.

**SB 997 – WORK SESSION**

070 Van Winkle Explains the provisions of SB 997. Notes the -3 amendments before the committee (**EXHIBIT R**).

082 Darrell Fuller Oregon Auto Dealers Association. Notes he has just received the -3 amendments. States that the amendments appear to address all prior concerns.

099 Cheryl Pellegrini Points out additional details of the measure.

105 Sen. Monnes Inquires about the cost difference between paper and electronic

	Anderson	filing.
107	Pellegrini	Clarifies the costs.
110	Sen. Monnes	Asks what the price is now.
	Anderson	
111	Pellegrini	Replies is has not changed.
114	Fuller	Notes the current difference in statute.
122	<b>Sen. B. Starr</b>	<b>MOTION: Moves to ADOPT SB 997-3 amendments dated 4/7/05.</b>
127		<b>VOTE: 4-0-1</b>
	<b>Chair Metsger</b>	<b>EXCUSED: 1 - Atkinson</b>
	<b>Sen. B. Starr</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
130		<b>MOTION: Moves SB 997 to the floor with a DO PASS AS AMENDED recommendation.</b>
133		<b>VOTE: 4-0-1</b>
	<b>Chair Metsger</b>	<b>EXCUSED: 1 - Atkinson</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. B. STARR will lead discussion on the floor.</b>
140	Chair Metsger	Closes work session on SB 997. Opens a work session on SB 949.
<b><u>SB 949 – WORK SESSION</u></b>		
143	Van Winkle	Explains the provisions of the measure. Notes there are -2 amendments to the measure ( <b>EXHIBIT S</b> ).
153	Neil Jackson	Oregon Trial Lawyers Association. Discusses the method of reaching an agreement through the -2 amendments.
167	Steve Murrell	Claim Attorney, State Farm Insurance. Concurs they have reached an agreement through the -2 amendments.
177	Chair Metsger	Asks if they are comfortable to move this forward.
180	Murrell	Replies they are.
185	<b>Sen. B. Starr</b>	<b>MOTION: Moves to ADOPT SB 949-2 amendments dated 4/4/05.</b>
187		<b>VOTE: 4-0-1</b>
	<b>Chair Metsger</b>	<b>EXCUSED: 1 - Atkinson</b>
	<b>Sen. B. Starr</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
190		<b>MOTION: Moves SB 949 to the floor with a DO PASS AS AMENDED recommendation.</b>
193		<b>VOTE: 4-0-1</b>
	<b>Chair Metsger</b>	<b>EXCUSED: 1 - Atkinson</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. DECKERT will lead discussion on the floor.</b>
195	Chair Metsger	Closes the work session on SB 949. Opens a work session on SB 950.
<b><u>SB 950 – WORK SESSION</u></b>		
197	Van Winkle	Describes the provisions of the measure. Points out the -2 amendment before the committee ( <b>EXHIBIT T</b> ).
203	Murrell	Provides and summary of prior testimony. Testifies in favor to the -2 amendment, aside from some minor technical issues.
237	Chair Metsger	Appreciates their efforts to clarify the law. Wonders if there is any trouble moving this forward.
243	Murrell	Offers that he has no concerns with this measure moving forward. Notes there may be additional issues to be addressed in the other chamber.
249	<b>Sen. Deckert</b>	<b>MOTION: Moves to ADOPT SB 950-2 amendments dated 4/7/05.</b>

SB 997-1  
(LC 2687)  
3/30/05 (HRL/ps)

**PROPOSED AMENDMENTS TO  
SENATE BILL 997**

- 1 Delete lines 4 through 20 of the printed bill and insert:
- 2 **“SECTION 1.** ORS 802.033 is amended to read:
- 3 **“802.033.** *[The Department of Transportation may adopt rules to limit the*
- 4 *amount that a licensed vehicle dealer may charge a purchaser for the dealer*
- 5 *to collect fees and to complete and submit documents necessary for the trans-*
- 6 *ference of a certificate of title and registration for a vehicle. The limit estab-*
- 7 *lished by department rule may not be less than \$50.]*
- 8 **“(1) As used in this section:**
- 9 **“(a) ‘Integrator’** has the meaning given that term in ORS 802.600.
- 10 **“(b) ‘Vehicle dealer’** means a person issued a vehicle dealer certifi-
- 11 **cate** under ORS 822.020.
- 12 **“(2) A vehicle dealer** may prepare, submit, or prepare and submit
- 13 **documents** necessary to:
- 14 **“(a) Issue** or transfer a certificate of title for a vehicle; or
- 15 **“(b) Register** a vehicle or transfer registration of a vehicle.
- 16 **“(3) A vehicle dealer** who prepares any documents described in
- 17 **subsection (2)** of this section may charge a purchaser of a vehicle an
- 18 **administrative fee** for the preparation of those documents.
- 19 **“(4) The Department of Transportation** may adopt rules to limit the
- 20 **amount of an administrative fee** charged under subsection (3) of this
- 21 **section.** The limit established by rule may not be less than:
- 22 **“(a) \$75,** if the person uses an integrator to prepare the documents;
- 23 **or**
- 24 **“(b) \$50,** if the person does not use an integrator to prepare the

1 documents.”

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**Testimony in SUPPORT of SENATE BILL 997**  
**with AMENDMENTS**



Presented to: Senate Committee on Business  
Date: March 31, 2005

By: Darrell W. Fuller  
Regulatory Affairs Director

MEASURE: SB 997  
EXHIBIT: T  
Senate Business and Economic Development  
DATE: 3-31-05 PAGES: 2  
SUBMITTED BY: Darrell Fuller

The Oregon Auto Dealers Association (OADA) represents Oregon's approximately 250 franchised new car and truck dealers. This includes dealers who sell heavy trucks.

OADA requested the introduction of Senate Bill 997. We have also requested amendments which replace the original bill. The -1 amendments we received yesterday, unfortunately, do not reflect the agreement we've reached with the Attorney General's office. I will continue to work with the Attorney General's office and Legislative Counsel's office to obtain amendments that accurately reflect our agreement.

The agreement in concept reached on this bill is the product of years of ongoing, evolving, cooperative and productive talks between my association and representatives of the Attorney General's Division of Consumer Protection. I want to state on the record how much dealers appreciate the great working relationship we have developed with Cheryl Pelligrini and Eugene Ebersole. The State of Oregon is very fortunate to have them working in the Justice Department.

Motor vehicle dealers are very large tax collectors on behalf of the State of Oregon. When we process title and registration paperwork on behalf of our customers, we also usually collect the fees which fund our highways and roads, among other things. The amount of paperwork required to title and register a motor vehicle is significant. The forms must be completely without error to protect the interests of the previous owner, the new owner and the lienholder if the vehicle is purchased with a loan. Speed and accuracy is also crucial to law enforcement as the information we provide shows up on the computer screens in police cruisers each and every time they pull over a vehicle.

In order to do this work effectively, quickly and accurately, most large motor vehicle dealers employ personnel, called Title Clerks, who do nothing but complete title and registration paperwork, collect government fees and distribute license plates. The cost of hiring, training and employing these Title Clerks is borne solely by the dealer. Some of the larger dealers have many title clerks on the payroll and experienced title clerks can earn a very comfortable salary with full benefits.

In an effort to assist dealers in recovering some of the costs associated with the overwhelming administrative tasks associated with selling vehicles, the Department of Justice in 1993 -- as the result of direct negotiations with then-Attorney General Ted Kulongoski -- began permitting dealers to charge customers a \$35 fee for processing their paperwork. This administrative fee was created by administrative rule.

In 2001, again in direct negotiations with the Department of Justice and also in cooperation with the Business Regulation Section of the Driver and Motor Vehicle Services Division of the Department of Transportation, the \$35 "admin fee" was moved from a Department of Justice administrative rule into the statutes relating to dealers processing title and registration documents. At this time, the fee was also raised for the first and only time in ten years, from \$35 to \$50.

*Testimony by Darrell Fuller, OADA  
Senate Bill 997; March 31, 2005; Page Two*

Occurring concurrently to the admin fee modifications was the final implementation of a 1997 law permitting vehicle dealers to connect directly with DMV by computer, through an "integrator", to electronically update ownership records rather than printing paper forms to submit to DMV, only for the data to later be rekeyed into DMV computers (a truly needless duplication of inputting data). The "Electronic Vehicle Registration" program permits dealers to charge customers a fee for this added service. The customer must "opt in" to the electronic filing service and affirmatively agree to pay the additional fee, which is not set by statute or rule. The advantage to the customer is that their name is listed more quickly as the owner in DMV files, titles and registrations are mailed to the new owners much sooner and the customer may receive their new license plates or registration year stickers at the dealership at the time of the sale rather than waiting to receive them from DMV when the paper forms are processed in the normal course of business.

*(Implementing the 1997 law permitting DMV to electronically process title and registration information through an integrator was delayed beyond 2000 because all of DMV's computer technicians were tasked with protecting systems from any of the failures widely feared when two-digit computer year records changed from 99 to 00.)*

Currently, dealers can complete the paperwork and charge their customers \$50 for any sale that includes a third party. The third party is usually a financial institution loaning the purchaser money to buy a vehicle. Dealers may require customers to permit them to process the paperwork because dealers have a fiduciary responsibility to protect the interest of the third party. However, the Department of Justice has steadfastly held that customers who pay cash to purchase a vehicle may demand the previous owner's title to the vehicle so that the new owner can process the title transfer on their own. Dealers dispute this position. State law gives dealers 30 days to provide a purchaser with a title to a purchased vehicle. We have always believed that this time could be used by dealers to submit the necessary paperwork to provide the new purchaser with a title in their name regardless of how the customer pays for the newly purchased vehicle.

The dealer's position has had greater weight in recent years for a number of reasons. First is the advance in personal privacy laws. Current Oregon Certificates of Title for motor vehicles can have the names and addresses of up to the six previous owners on the back. Dealers have an obligation to protect this personal information of customers who have traded-in vehicles to our dealerships. Second, vehicle purchasers who obtain the previous title can intentionally fail to retitle and reregister the vehicle in their name. This leaves the vehicle ownership records in someone else's name. The vehicle can then be used to cook meth, transport narcotics or any number of other illegal activities. If a vehicle used for illegal purposes was then abandoned, a previous owner may become responsible due to no fault of their own. Finally, the need for more enhanced homeland security protections just adds validity to the importance of quickly and accurately updating DMV records with the names of new purchasers of motor vehicles.

In a negotiated agreement between OADA and the Department of Justice, dealers have agreed to allow the state to cap the fee dealers charge for electronically filing customer information -- the EVR fee -- which is currently determined by the dealer and agreed to by the customer, in exchange for the Department reversing its long held position that cash purchasers may demand the previous title for a newly purchased vehicle. Customers must still "opt in" to using EVR.

The Department of Justice and the auto dealers intend to bring to the committee amendments that reflect the agreement we have reached. I apologize the amendments received yesterday afternoon do not quite get us where we need to go. When the amendments new amendments are done, we will urge the committee to adopt them and give Senate Bill 997 a "do pass with amendments" recommendation to the full Senate. Thank you.

SB 997-3  
(LC 2687)  
4/7/05 (HRL/ps)

**PROPOSED AMENDMENTS TO  
SENATE BILL 997**

1 In line 2 of the printed bill, before the period insert "and 802.600".

2 Delete lines 4 through 20 and insert:

3 **"SECTION 1.** ORS 802.033 is amended to read:

4 "802.033. [*The Department of Transportation may adopt rules to limit the*  
5 *amount that a licensed vehicle dealer may charge a purchaser for the dealer*  
6 *to collect fees and to complete and submit documents necessary for the trans-*  
7 *ference of a certificate of title and registration for a vehicle. The limit estab-*  
8 *lished by department rule may not be less than \$50.]*

9 **"(1) As used in this section:**

10 **"(a) 'Integrator' has the meaning given that term in ORS 802.600.**

11 **"(b) 'Vehicle dealer' means a person issued a vehicle dealer certif-**  
12 **icate under ORS 822.020.**

13 **"(2) A vehicle dealer may elect to prepare, submit, or prepare and**  
14 **submit documents necessary to:**

15 **"(a) Issue or transfer a certificate of title for a vehicle; or**

16 **"(b) Register a vehicle or transfer registration of a vehicle.**

17 **"(3) A vehicle dealer who prepares any documents described in**  
18 **subsection (2) of this section:**

19 **"(a) May charge a purchaser of a vehicle a fee for the preparation**  
20 **of those documents.**

21 **"(b) May not charge a purchaser of a vehicle a fee for the sub-**  
22 **mission of any document.**

23 **"(4) The Department of Transportation may adopt rules to limit the**  
24 **amount of a fee charged under subsection (3) of this section. The limit**



1 established by rule may not be less than:

2 “(a) \$75, if the vehicle dealer uses an integrator to prepare the  
3 documents; or

4 “(b) \$50, if the vehicle dealer does not use an integrator to prepare  
5 the documents.

6 “(5) If a vehicle dealer uses an integrator, the dealer must inform  
7 the purchaser of the vehicle of the option to have documents prepared  
8 through an integrator. The purchaser may elect whether or not to  
9 have the vehicle dealer use an integrator to prepare the documents.

10 “SECTION 2. ORS 802.600 is amended to read:

11 “802.600. (1) After completion of the study required by section 3, chapter  
12 583, Oregon Laws 1997, and the report to the Joint Legislative Committee  
13 on Information Management and Technology as required by section 4, chap-  
14 ter 583, Oregon Laws 1997, the Department of Transportation may enter into  
15 an agreement with any person who is not an employee of the department,  
16 including but not limited to an integrator, enabling the person to transact  
17 on behalf of the department the functions of the department specified in  
18 section 3, chapter 583, Oregon Laws 1997.

19 “(2) An agreement described in subsection (1) of this section may be in  
20 any form and may contain any provisions that the department determines to  
21 be in the best interests of the public and convenient for the department, in-  
22 cluding but not necessarily limited to provisions that allow the department  
23 to:

24 “(a) Ensure product quality control.

25 “(b) Audit activities of the person entering into the agreement to ensure  
26 compliance with the agreement.

27 “(c) Impose sanctions on a person for violation of the agreement.

28 “(3) A person authorized to transact business for the department under  
29 this section, including but not limited to a person who transacts business  
30 under contract with an integrator, may charge a fee for the services pro-

1 vided. Fees authorized under this subsection are in addition to any charges  
2 or fees that the department is authorized by statute to collect for the trans-  
3 action.

4 “(4)(a) The department may adopt such rules as are necessary to carry out  
5 the provisions of this section, including but not limited to rules that:

6 “(A) Specify criteria for eligibility of a person to enter into an agreement  
7 with the department under this section.

8 “(B) Specify the manner in which fees authorized by this section will be  
9 collected and establish any notification the person is required to give the  
10 public about the fees.

11 “(C) Require a bond in an amount determined by the department from a  
12 person acting under an agreement described in this section.

13 “(D) Prohibit disclosure of personal information from driver or vehicle  
14 records except in accordance with applicable laws.

15 “(b) **Except as provided in ORS 802.033**, the department may not adopt  
16 rules establishing the amount of a fee to be charged by a person acting under  
17 this section.

18 “(c) Rules adopted under this subsection shall be developed in consulta-  
19 tion with persons who might enter into agreements with the department un-  
20 der this section, including but not limited to integrators and vehicle dealers.

21 “(5) As used in this section and section 3, chapter 583, Oregon Laws 1997,  
22 ‘integrator’ means a person who enters into a contract with the Department  
23 of Transportation:

24 “(a) To provide information and supplies to a person who transacts busi-  
25 ness for the department under an agreement described in this section; and

26 “(b) To collect moneys due from persons who transact the business and  
27 remit the moneys to the department.”.

28 In line 21, delete “2” and insert “3”.

295 Rep. Burley **MOTION: Moves SB 481-A be placed on the CONSENT CALENDAR.**

**VOTE: 6-0-1**

**EXCUSED: 1 - Hunt**

**Chair Gilman Hearing no objection, declares the motion CARRIED.**

300 Chair Gilman Closes the work session on SB 481-A. Opens a public hearing on SB 997 A.

**SB 997-A – PUBLIC HEARING**

305 Patrick Brennan Committee Administrator. Introduces SB 997-A and the –A4 amendments (**EXHIBIT C**).

315 Darrell Fuller Regulatory Affairs Director, Oregon Automobile Dealers Association (OADA). Submits and summarizes prepared testimony in support of SB 997-A (**EXHIBIT D**).

**TAPE 75, A**

020 Rep. Burley References a study that was due to be done in 1997 and asks if sections of code could be deleted.

028 Fuller Answers that the study was delivered to the 1999 Legislative Assembly and agrees that the section in question could be deleted.

035 Cheryl Pellegrini Assistant Attorney General, Oregon Department of Justice (DOJ). Answers that she can obtain additional information.

042 Fuller States that he will bring the issue back to legislature.

048 Rep. Thatcher Asks why the state is involved in the setting of a fee.

050 Fuller Answers that OADA is operating as an agent of ODOT in processing paperwork. Notes that DOJ regulates the process.

- 073 Rep. Thatcher Asks why the paperwork processing fees are not included in the price of a vehicle.
- 077 Fuller Offers an analogy of purchasing an item from a store via catalog and paying a shipping and handling fee.
- 095 Pellegrini Testifies that DOJ is neutral on the bill. Notes that the Oregon State Police describe abandoned cars. Explains that there is no change in the law regarding the price a consumer will pay.
- 120 Chair Gilman Closes the public hearing and opens a work session on SB 997 A.

**SB 997-A – WORK SESSION**

- 125 Rep. Burley **MOTION: Moves to ADOPT SB 997 A-A4 amendments dated 5/25/05.**

**VOTE: 6-0-1**

**EXCUSED: 1 - Hunt**

**Chair Gilman Hearing no objection, declares the motion CARRIED.**

- 130 Rep. Burley **MOTION: Moves SB 997-A to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Hunt**

**Chair Gilman The motion CARRIES.**

- 138 Rep. Bruun **MOTION: Moves SB 997-A be placed on the CONSENT CALENDAR.**

**VOTE: 6-0-1**

**EXCUSED: 1 - Hunt**

**Chair Gilman      Hearing no objection, declares the motion CARRIED.**

141      Chair Gilman      Closes the work session on SB 997 A. Adjourns the meeting at 1:45 p.m.

**EXHIBIT SUMMARY**

- A. Road User Fee Pilot Program Update testimony and information, James Whitty, 4 pp**
- B. SB 481-A, prepared testimony, Brian Doherty, 1 p**
- C. SB 997 A, -A4 amendments, staff, 2 pp**
- D. SB 997 A, prepared testimony, Darrell Fuller, 2 pp**

MEASURE: SB 997A  
EXHIBIT: C  
HOUSE COMMITTEE ON TRANSPORTATION  
DATE: 5-25-05 PAGES: 2  
SUBMITTED BY: STAFF

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 997**

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 27 and  
2 insert:

3 **“SECTION 1.** ORS 802.033 is amended to read:

4 *“802.033. [The Department of Transportation may adopt rules to limit the*  
5 *amount that a licensed vehicle dealer may charge a purchaser for the dealer*  
6 *to collect fees and to complete and submit documents necessary for the trans-*  
7 *ference of a certificate of title and registration for a vehicle. The limit estab-*  
8 *lished by department rule may not be less than \$50.]*

9 **“(1) As used in this section:**

10 **“(a) ‘Integrator’ has the meaning given that term in ORS 802.600.**

11 **“(b) ‘Vehicle dealer’ means a person issued a vehicle dealer certif-**  
12 **icate under ORS 822.020.**

13 **“(2) A vehicle dealer may elect to prepare, submit, or prepare and**  
14 **submit documents necessary to:**

15 **“(a) Issue or transfer a certificate of title for a vehicle;**

16 **“(b) Register a vehicle or transfer registration of a vehicle; or**

17 **“(c) Issue a registration plate.**

18 **“(3) A vehicle dealer who prepares any documents described in**  
19 **subsection (2) of this section:**

20 **“(a) May charge a purchaser of a vehicle a fee for the preparation**  
21 **of those documents.**

22 **“(b) May not charge a purchaser of a vehicle a fee for the sub-**  
23 **mission of any document or the issuance of a registration plate.**

24 **“(4) The Department of Transportation may adopt rules to:**

1       “(a) Limit the amount of a fee charged under subsection (3) of this  
2 section. The limit established by rule may not be less than:

3       “(A) \$75, if the vehicle dealer uses an integrator; or

4       “(B) \$50, if the vehicle dealer does not use an integrator.

5       “(b) Determine when a vehicle dealer is required to inform the  
6 purchaser of the vehicle of the option of using an integrator and when  
7 the purchaser has the option of electing to use an integrator.

8       “(5) Unless otherwise provided by rule, if a vehicle dealer uses an  
9 integrator and charges a fee greater than that charged for not using  
10 an integrator, the dealer must inform the purchaser of the vehicle of  
11 the option of using an integrator to prepare the documents. The pur-  
12 chaser may then elect whether or not to have the vehicle dealer use  
13 an integrator to prepare the documents.”.

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**Testimony in SUPPORT of SENATE BILL 997-A**  
**with AMENDMENTS**

MEASURE: SB 997A  
EXHIBIT: D  
HOUSE COMMITTEE ON TRANSPORTATION  
DATE: 5-25-05 PAGES: 2  
SUBMITTED BY: DARRELL FULLER

**Presented to:** House Committee on Transportation  
**Date:** May 25, 2005  
**By:** Darrell W. Fuller  
Regulatory Affairs Director



The Oregon Auto Dealers Association (OADA) represents Oregon's approximately 250 franchised new car and truck dealers. This includes dealers who sell heavy trucks.

OADA requested the introduction of Senate Bill 997. We also requested the amendments adopted by the House which replaced the original bill. In ongoing cooperation with the Department of Justice and the Department of Transportation, we also have requested the amendments before you today which do not change the nature of the bill, but redrafts it for clarity and to ensure the statutes will actually accomplish the goals agreed to by the parties that negotiated them.

The agreement reached on this bill is the product of years of ongoing, evolving, cooperative and productive talks between my association and representatives of the Attorney General's Division of Consumer Protection and the Business Regulation section of the Driver and Motor Vehicle Services division of the Department of Transportation.. I want to state on the record how much dealers appreciate the great working relationship we have developed with Cheryl Pellegrini, Eugene Ebersole, Eva Tayrose, Christopher Ratliff and Robin Freeman. The State of Oregon is very fortunate to have them working in the Justice Department and DMV. I will particularly miss working with Cheryl Pellegrini as she moves this summer from Consumer Protection to Organized Crime. However, I do hope to never see her again on a business-related matter once she has moved to Organized Crime.

Motor vehicle dealers are very large tax collectors on behalf of the State of Oregon. When we process title and registration paperwork for our customers, we also usually collect the fees which fund our highways and roads, among other things. The amount of paperwork required to title and register a motor vehicle is significant. The forms must be completely without error to protect the interests of the previous owner, the new owner and the lienholder if the vehicle is purchased with a loan. Speed and accuracy is also crucial to law enforcement as the information we provide shows up on the computer screens in police cruisers each and every time they pull over a vehicle.

In order to do this work effectively, quickly and accurately, most large motor vehicle dealers employ personnel, called Title Clerks, who do nothing but complete title and registration paperwork, collect government fees and distribute license plates. The cost of hiring, training and employing these Title Clerks is borne solely by the dealer. Some of the larger dealers have many title clerks on the payroll and experienced title clerks can earn a very comfortable salary with full benefits.

In an effort to assist dealers in recovering some of the costs associated with the overwhelming administrative tasks associated with selling vehicles, the Department of Justice in 1993 -- as the result of direct negotiations with then-Attorney General Ted Kulongoski -- began permitting dealers to charge customers a \$35 fee for processing their paperwork. This administrative fee was created by administrative rule.

In 2001, again in direct negotiations with the Department of Justice and also in cooperation with the Business Regulation Section of the Driver and Motor Vehicle Services Division of the Department of Transportation, the \$35 "admin fee" was moved from a Department of Justice administrative rule into the statutes relating to dealers processing title and registration documents. At this time, the fee was also raised for the first and only time in ten years, from \$35 to \$50.



**Testimony is SUPPORT of Senate Bill 997 with AMENDMENTS  
March 31, 2005, Senate Business Committee**

Occurring concurrently to the admin fee modifications was the final implementation of a 1997 law permitting vehicle dealers to connect directly with DMV by computer, through an "integrator", to electronically update ownership records rather than printing paper forms to submit to DMV, only for the data to later be rekeyed into DMV computers (a truly needless duplication of inputting data). The "Electronic Vehicle Registration" program permits dealers to charge customers a fee for this added service. The customer must "opt in" to the electronic filing service and affirmatively agree to pay the additional fee, which is not set by statute or rule. The advantage to the customer is that their name is listed more quickly as the owner in DMV files, titles and registrations are mailed to the new owners much sooner and the customer may receive their new license plates or registration year stickers at the dealership at the time of the sale rather than waiting to receive them from DMV when the paper forms are processed in the normal course of business.

*(Implementing the 1997 law permitting DMV to electronically process title and registration information through an integrator was delayed beyond 2000 because all of DMV's computer technicians were tasked with protecting systems from any of the failures widely feared when two-digit computer year records changed from 99 to 00.)*

Currently, dealers can complete the paperwork and charge their customers \$50 for any sale that includes a third party. The third party is usually a financial institution loaning the purchaser money to buy a vehicle. Dealers may require customers to permit them to process the paperwork because dealers have a fiduciary responsibility to protect the interest of the third party. However, the Department of Justice has steadfastly held that customers who pay cash to purchase a vehicle may demand the previous owner's title to the vehicle so that the new owner can process the title transfer on their own. Dealers dispute this position. State law gives dealers 30 days to provide a purchaser with a title to a purchased vehicle. We have always believed that this time could be used by dealers to submit the necessary paperwork to provide the new purchaser with a title in their name regardless of how the customer pays for the newly purchased vehicle.

The dealer's position has had greater weight in recent years for a number of reasons. First is the advance in personal privacy laws. Current Oregon Certificates of Title for motor vehicles can have the names and addresses of up to six previous owners on the back. Dealers have an obligation to protect this personal information of customers who have traded-in vehicles to our dealerships. Second, vehicle purchasers who obtain the previous title can intentionally fail to retitle and reregister the vehicle in their name. This leaves the vehicle ownership records in someone else's name. The vehicle can then be used to cook meth, transport narcotics or any number of other illegal activities. If a vehicle used for illegal purposes was then abandoned, a previous owner may become responsible due to no fault of their own. Finally, the need for more enhanced homeland security protections just adds validity to the importance of quickly and accurately updating DMV records with the names of new purchasers of motor vehicles.

In a negotiated agreement between OADA and the Department of Justice, dealers have agreed to allow the state to cap the fee dealers charge for electronically filing customer information -- the EVR fee -- which is currently determined by the dealer and agreed to by the customer, in exchange for the Department reversing its long held position that cash purchasers may demand the previous title for a newly purchased vehicle. Customers must still "opt in" to using EVR.

OADA urges you to adopt the amendments to SB997-A and give the bill a "do pass as amended" recommendation to the full House of Representatives. Thank you.