

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rules(s) adopted on June 20, 2008 by the
Date prior to or same as filing date.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division 735
Agency and Division Administrative Rules Chapter Number

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to become effective upon filing Rulemaking Notice was published in the May 2008 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Amends Rules Relating to Vehicle Dismantlers
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 735-024-0070, 735-024-0080, 735-032-0020, 735-152-0000, 735-152-0040, 735-152-0050 and 735-152-0060

REPEAL: 735-024-0070 (temp), 735-024-0080 (temp), 735-032-0020 (temp), 735-152-0000 (temp), 735-152-0040 (temp), 735-152-0050 (temp) and 735-152-0060 (temp)

RENUMBER: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND & RENUMBER: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

FILED
JUN 23 2008
ARCHIVES DIVISION
SECRETARY OF STATE

ORS 184.616, 184.619, 802.010, 803.140, 819.010, 819.012, 819.014, 819.016, 819.018, 822.125, 822.130, 822.135, 822.137 and Chapter 683, Oregon Laws 2007
Stats. Auth. Other Authority

ORS 809.080, 809.110, 819.010, 819.012, 819.014, 819.016, 819.018, 819.030, 819.040, 819.140, 819.220, 803.380, 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145, 822.150 and Chapter 683, Oregon Laws 2007
Stats. Implemented

RULE SUMMARY

This rulemaking implements legislation enacted by the 2007 Legislative Assembly. Chapter 683, Oregon Laws 2007: (1) requires dismantlers to surrender a vehicle's title, ownership record or other ownership document to DMV within 30 days of date a vehicle is acquired for dismantling, (2) grants DMV additional authority to impose sanctions on vehicle dismantlers and requires DMV to adopt rules establishing appropriate sanctions, and (3) under the legislative initiative, dismantlers are no longer subject to the requirements of ORS 819.010.

Tom McClellan Tom McClellan 6/23/08
Authorized Signer Printed Name Date

* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.
** The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.
ARC 930-2005

DMV 13-2000

735-024-0070

Notice of Vehicles to be Wrecked, Dismantled, Disassembled, or Substantially Altered in Form -
Responsibility of Parties

- (1) The types of vehicles that are subject to the provisions of ORS 819.010 (wrecked, dismantled, disassembled or substantially altered) include:
 - (a) Vehicles of the type that, when operated over the highways of this state, are required to be registered and titled;
 - (b) Class I or III all-terrain vehicles;
 - (c) Snowmobiles; and
 - (d) Any other vehicle that has been issued a title by DMV or by another jurisdiction.
- (2) This rule does not apply to a person who holds a current valid dismantler certificate issued under ORS 822.110.
- (3) ORS 819.010 and any related rules apply if the activity described in ORS 819.010 and OAR 735-024-0050 is performed in this state, and the vehicle is of a type covered in section (1) of this rule. This applies to vehicles titled in Oregon, those titled in another jurisdiction, and any vehicle not subject to title requirements.
- (4) Primary ownership documents for vehicles described in section (1) of this rule may be surrendered to DMV, in place of the certificate of title where a title does not exist, or where ownership is being transferred by operation of law and the title is not available.
- (5) The Oregon title certificate, foreign title certificate, or primary ownership document must be surrendered to DMV together with the application for salvage title, if a salvage title is required.
- (6) The Oregon title and, unless lost or completely destroyed, the vehicle's registration card and registration plates must be surrendered to DMV along with a written statement that indicates the vehicle was dismantled, disassembled, wrecked or substantially altered, if a salvage title is not required. The statement must be submitted on a DMV Form 735-6017, "Notice of Vehicle to be Dismantled/Proof of Compliance."
- (7) Vehicles that are subject to this rule may not be repaired, rebuilt, transferred, or the vehicle's frame or unibody used for repairing or constructing another vehicle, until a salvage title is applied for and issued, consistent with ORS 819.016 and 819.018.
- (8) If a salvage title is not required, DMV may issue proof of compliance upon request, if:
 - (a) The title or primary ownership document is surrendered to DMV;
 - (b) DMV is provided with documentation that indicates the vehicle has been wrecked, dismantled, disassembled or substantially altered; and
 - (c) DMV is satisfied that a salvage title is not required.
- (9) The act of wrecking, dismantling, disassembling or substantially altering a vehicle does not by itself cause a vehicle to be considered a totaled vehicle. Such a vehicle:
 - (a) Is subject to the requirements under ORS 819.010 and DMV rules; and
 - (b) Is not considered totaled, and is not subject to requirements that apply to totaled vehicles unless the vehicle was determined to be totaled before the vehicle was wrecked, dismantled, disassembled or substantially altered.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.140, 819.010, 819.012, 819.014, 819.016 and 819.018

Stats. Implemented: ORS 819.010, 819.012, 819.014, 819.016, 819.018, 819.030 and 819.040

735-024-0080

Abandoned Vehicles Sold Under ORS 819.220

- (1) This rule defines terms and establishes procedures and requirements for the sale and purchase of abandoned vehicles under ORS 819.220. As used in this rule:

- (a) "Authority" means an agency authorized under ORS 819.140 to take custody of and dispose of abandoned vehicles.
- (b) "Purchaser" means a person to whom the authority sold a vehicle under the provisions of ORS 819.220 but does not include a dismantler.
- (2) In addition to all other applicable requirements of ORS 819.220, an authority must provide the purchaser a certificate of sale and a Notice of Vehicle to be Dismantled/Proof of Compliance (DMV Form 735-6017).
- (3) The purchaser must:
 - (a) Submit Form 735-6017 to DMV seven days before the date of taking any action to wreck, dismantle, disassemble or substantially alter the form of the vehicle; and
 - (b) Submit a second Form 735-6017 to DMV along with the title or primary ownership document (e.g., sheriff's certificate of sale), within 30 days from the date the vehicle was wrecked, dismantled, disassembled or substantially altered, if the vehicle is exempt from salvage title requirements under ORS 819.016 or OAR 735-024-0130.
- (4) Except as otherwise provided in ORS 819.016 and OAR 735-024-0130, a purchaser must apply to DMV for a salvage title.
- (5) Even if other provisions of this rule apply, a purchaser who purchased a vehicle under ORS 819.220 before January 1, 1992, is not required to apply for salvage title unless:
 - (a) The vehicle is repaired. If the vehicle is repaired, the applicant may apply for a salvage title or a branded certificate of title showing the vehicle as assembled, reconstructed or a replica, whichever applies;
 - (b) The vehicle is wrecked, dismantled, disassembled or substantially altered in form; or
 - (c) The purchaser transfers ownership of the frame or unibody.

Stat. Auth.: ORS 184.616, 184.619 and 802.010
Stats. Implemented: ORS 819.140 and 819.220

735-032-0020

Plates Considered Void

Registration plates that are required to be surrendered to DMV are void and may not be used to register or operate a vehicle again. This does not apply to plates surrendered to DMV in error and that have not already been destroyed.

Stat. Auth.: ORS 184.616, 184.619 and 802.010
Stats. Implemented: ORS 803.350, 803.380, 803.590, 809.080 and 809.110

735-152-0000

Definitions

As used in this division the following definitions apply:

- (1) "Acquires," "acquired" or "acquisition" means physical possession of a motor vehicle together with possession of the vehicle's ownership record.
- (2) "Cancellation" has the same meaning as "revocation" as defined in section (17) of this rule.
- (3) "Certificate of sale" has the same meaning as defined in ORS 801.183.
- (4) "Date of sale" means the date that a purchaser takes possession of a major component purchased from a dismantler.
- (5) "Destroy" has the same meaning as defined in ORS 822.133.
- (6) "Dismantler" has the same meaning as defined in ORS 801.236.
- (7) "Dismantle" means one or more major component parts are removed from a motor vehicle acquired by a dismantler.

- (8) "Dispose" or "disposed of" means a motor vehicle acquired by a dismantler that is transferred to another person or is dismantled or destroyed.
- (9) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.
- (10) "Employee" means a person over whom a dismantler exercises the type of control typically associated with an employer, including:
- (a) Determining the frequency, method and amount of compensation;
 - (b) Determining whether the person's work is continuous or intermittent;
 - (c) Determining the hours or frequency of a person's work; or
 - (d) Retaining the ability to terminate the relationship.
- (11) "Major component part" has the same meaning as defined in ORS 822.137.
- (12) "Primary ownership document" or "ownership record," as used in ORS 822.135, has the same meaning as "primary ownership" record as defined in ORS 801.402 and includes the primary ownership documents described in OAR 735-020-0010 or an abandoned vehicle certificate described in OAR 735-024-0077.
- (13) "Person" means an individual, partnership, corporation, association, or any other business organization if the context in which the term is used could also include these organizational forms.
- (14) "Principal" means any owner, partner, corporate officer or other person who controls or manages the business organization or the employees or agents of the business organization.
- (15) "Probation" means a period of time specified by DMV that a dismantler may continue to operate, but only under terms or conditions established by DMV.
- (16) "Revocation" means to void and terminate a dismantler certificate or the principal's right to apply for a dismantler certificate.
- (17) "Sanction" means an action taken by DMV against a dismantler's certificate, or the principal of a dismantler business, for non-compliance with Oregon law or DMV rule related to dismantlers or the operation of a dismantler business.
- (18) "Suspension" means the temporary withdrawal of the authority to act as a dismantler.
- (19) "Vehicle Business" includes vehicle dealers as defined in OAR 735-150-0010(14), dismantlers, towing businesses, vehicle transporters and repair shops.
- (20) "Violation" means any violation of Oregon law or a DMV rule applicable to a dismantler issued a certificate or any person engaged in dismantling activities.
- (21) "Warning" means a documented warning or correction notice issued to a principal or employee of a dismantler business.
- (22) "Wrecked vehicle" has the same meaning as defined in ORS 822.133.
- (23) "Written report" means DMV Form 270, Vehicle Dismantler's Notice and the original ownership record for the vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.135 and 822.137

Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 and 822.150

735-152-0040

Dismantler Violations Subject to Sanction

A dismantler is subject to the sanctions described under OAR 735-152-0050 if the dismantler:

- (1) Commits the offense of improperly conducting a motor vehicle dismantling business for any of the reasons set forth in ORS 822.133, 822.135, 822.145 or relevant rules adopted by DMV.

(2) Allows a person who is not an employee of the dismantler to imply or represent an affiliation with the dismantler business to engage in any activity that would subject that person to dismantler certification and regulatory requirements.

(3) Fails to allow DMV to conduct an inspection.

(4) Is issued notice that the dismantler's bond under ORS 822.120 is cancelled.

(5) Fails to pay any civil penalty imposed under ORS 822.133 and 822.137.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.135 and 822.137

Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 and 822.150

735-152-0050

Sanctions

(1) DMV may impose sanctions against any person issued a valid dismantler certificate or a principle of a dismantler business, if it determines either has violated any Oregon law or DMV rule relating to the operation of a dismantler business.

(2) Sanctions may be imposed against either or both of the following:

(a) A dismantler's certificate;

(b) A principal of the dismantler business.

(3) Factors DMV may consider when imposing a sanction against a dismantler include:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional; and

(d) Any previous sanction, civil penalty or warning issued or imposed against the dismantler or principal.

(4) DMV determines the appropriate sanction to impose when it determines a violation has occurred. These may include one or more of the following:

(a) Verbal or written warning, including a correction notice.

(b) Probation under conditions set by DMV, for up to three years.

(c) Suspension of the dismantler certificate and the right to apply for a dismantler certificate, for up to three years.

(d) Revocation of the dismantler certificate and the right to apply for a dismantler certificate. A person subject to permanent revocation of a dismantler certificate is ineligible to apply for a new dismantler certificate, for up to five years.

(e) Suspension of the right of a principal of a dismantler business to apply for a dismantler certificate for a different vehicle-related business, or in a different business name, for up to three years.

(f) Revocation of the right of a principal of a dismantler business to apply for a dismantler certificate for a different vehicle-related business, including a vehicle-related business with a different business name, for up to five years.

(g) Cancellation of the dismantler certificate if it is determined the applicant or a principal of the business is ineligible for a dismantler certificate.

(h) Immediate suspension or cancellation as provided in ORS 822.145(2) upon receipt of legal notice the dismantler's bond under ORS 822.120 is canceled.

(i) Immediate suspension or cancellation for failure to pay any penalty imposed under ORS 822.137 and OAR 735-152-0045.

(5) A dismantler or principal whose business certificate or privileges are suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS chapter 183.

(6) Except as provided in section (7) of this rule, a dismantler's request for a hearing shall be submitted in writing to and received by DMV within 20 days of the date of the notice of revocation, suspension or cancellation. A hearing request received in a timely manner shall result in a withdrawal of the revocation suspension or cancellation pending the outcome of the hearing.

(7) In the instance of an immediate suspension or cancellation as provided by subsection (4)(g) or (h) of this rule, a dismantler's request for a hearing shall be submitted in writing to and received by DMV within 90 days of the date the notice is issued. A hearing request received in a timely manner shall not result in a withdrawal of the suspension or cancellation pending the outcome of the hearing.

(8) In order for a request for hearing to be timely, the request must be received by DMV within the time periods established in sections (6) and (7) of this rule. If the request for hearing is not timely received, the person waives their right to a hearing, except as provided in OAR 137-003-0528. The time periods will be computed as set forth in OAR 137-003-0520(8).

(9) When DMV does not receive a timely request for a hearing, the dismantler or principal defaults, waives the right to a hearing and DMV's file constitutes the record of the case.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.133 and 822.137

Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 and 822.150

735-152-0060

Civil Penalty Matrix for Certified Dismantlers

DMV may impose a civil penalty against a motor vehicle dismantler for any violation described under ORS 822.133, 822.137 and DMV rules. DMV adopts this civil penalty matrix to determine civil penalty amounts that may be imposed against dismantlers for specific violations. DMV may modify a civil penalty assessed against a dismantler under the provisions of OAR 735-152-0045. Under this rule, an offense is a "second or subsequent offense" if a dismantler committed the same offense within three years of the offense under consideration.

(1) Fraudulently obtaining a dismantler certificate by submission of an application under OAR 735-152-0005 containing a false statement or omission of a material fact: \$1,000, for the first and subsequent violation(s).

(2) Failure to notify DMV of any change in the information provided to DMV in the application submitted under OAR 735-152-0005 within 30 days of the change:

(a) For the first violation: warning;

(b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

(3) Failure to comply with any provision of ORS 822.137(2)(f) or OAR 735-152-0031 concerning dismantler motor vehicle records:

(a) For the first violation: warning;

(b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

- (4) Failure to comply with any provision of ORS 822.137(2)(f) or OAR 735-152-0031 concerning dismantler major component part records:
- (a) For the first violation: warning;
 - (b) For the second violation: \$250;
 - (c) For the third violation: \$500;
 - (d) For the fourth and subsequent violation(s): \$1,000.
- (5) Failure to comply with ORS 822.133(2)(b), concerning removing parts or destroying a motor vehicle before obtaining an ownership record for the vehicle:
- (a) For the first violation: \$500;
 - (b) For the second and subsequent violation(s): \$1,000.
- (6) Failure to comply with ORS 822.133(2)(a), by acquiring a motor vehicle or major component part without first obtaining a certificate of sale and, if applicable, a certificate of title:
- (a) For the first violation: warning;
 - (b) For the second violation: \$250;
 - (c) For the third violation: \$500;
 - (d) For the fourth and subsequent violation(s): \$1,000.
- (7) Failure to comply with ORS 822.133(2)(a) and OAR 735-152-0025(3) concerning physically separating or visually labeling a wrecked vehicle:
- (a) For the first violation: \$250;
 - (b) For the second violation: \$500;
 - (c) For the third and subsequent violation(s): \$1,000.
- (8) Failure to comply with ORS 822.137(2)(b), regarding the possession, sale or disposal of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen: \$1,000 for the first violation and subsequent violation(s).
- (9) Failure to comply with ORS 822.137(2)(c), regarding selling, buying, receiving, concealing, possessing or disposing of a motor vehicle or any part of a motor vehicle having a missing, defaced, intentionally altered or covered vehicle identification number, unless directed to do so by a law enforcement official: \$1,000 for the first violation and subsequent violation(s).
- (10) Failure to comply with ORS 822.137(2)(d) by committing a forgery in the second degree, as defined in ORS 165.007, or misstating a material fact relating to a certificate of title, registration or other document related to a motor vehicle that has been reassembled from parts of other motor vehicles: \$1,000 for the first violation and subsequent violation(s).
- (11) Failure to comply with ORS 822.137(2)(e) by fraudulently creating or modifying a dismantler certificate: \$1,000 for the first violation and subsequent violation(s).
- (12) Failure to comply with ORS 822.137(2)(h) concerning a dishonest act or omission during the sale of a motor vehicle or major component part that, as determined by DMV, causes a loss to the purchaser: \$1,000 for the first violation and subsequent violation(s).
- (13) Failure to comply with ORS 822.137(2)(i) concerning being convicted of a crime involving false statements or dishonesty that directly relates to the business of the dismantler or suffers any civil judgment imposed for conduct involving fraud, misrepresentation or conversion: \$1,000 for the first violation and subsequent violation(s).
- (14) Failure to comply with ORS 822.133(2)(e) and OAR 735-152-0034 concerning furnishing DMV with a written report, in a form established by DMV by rule, after a wrecked vehicle is dismantled or destroyed:
- (a) For the first violation: warning;
 - (b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

(15) Failure to comply with ORS 822.133(2)(c) concerning failure to demolish the registration plates of a wrecked vehicle at the time the ownership record is received:

(a) For the first violation: warning;

(b) For the second violation: \$250;

(c) For the third violation: \$500;

(d) For the fourth and subsequent violation(s): \$1,000.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.133, 822.135, 822.137 and 822.150

Implemented: ORS 183.430, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140 and 822.150