

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 February 17, 2010 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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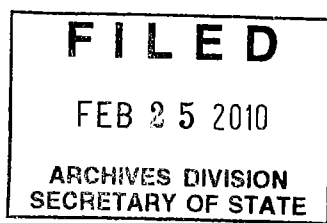
to become effective upon filing Rulemaking Notice was published in the January 2010 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Implements section 10 of chapter 448, Oregon Laws 2009 & ORS 803.015 regarding branded vehicle titles.
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:
AMEND: 735-024-~~0020~~ and 735-024-0025
REPEAL: 735-024-~~0020~~ (temp) and 735-024-0025 (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.



ORS 184.616, 184.619, 802.010, 803.012, 803.015, 819.016, 819.030 and section 10, chapter 448, OL 2009 None
Stats. Auth. Other Authority

ORS 803.015, 819.030 and section 10, chapter 448, OL 2009
Stats. Implemented

RULE SUMMARY

This rulemaking implements legislation enacted by the 2009 Legislative Assembly. Chapter 448, Oregon Laws 2009, amends Oregon's vehicle consumer warranty laws concerning lemon vehicles under ORS chapter 646.

Section 10, chapter 448, Oregon Laws 2009 requires a vehicle manufacturer that is required to replace a vehicle or refund the full price of a vehicle to a consumer to make a request to DMV to:

- (1) Title the vehicle in the manufacturer's name and inscribe (brand) the vehicle's title "Lemon Law Buyback;" and
- (2) Record the "Lemon Law Buyback" brand on DMV's records for the vehicle.

ORS 803.015 requires Oregon vehicle titles to contain any brand or notation specified by DMV. In order to implement section 10, chapter 448, Oregon Laws 2009, DMV has amended to OAR 735-024-~~0020~~ and 735-024-0025, relating to title brands. The amendments update definitions and circumstances when DMV will add or remove a Lemon Law Buyback title brand on an Oregon vehicle title or Oregon Salvage Title Certificate.

Thomas L. McClellan
Authorized Signer

Thomas L. McClellan
Printed Name

2/19/10
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 6-2-2010

0015 SK

735-024-0015

Definitions; Title Brands

As used in this rule through 735-024-0025, the following definitions apply:

(1) "Brand," "branded title," or "title brand" means a notation, inscription, indicator, symbol or phrase that is or has been printed, inscribed, stamped or otherwise affixed to a certificate of title to indicate the history, condition, or circumstances of a vehicle. A title brand does not necessarily indicate the extent to which a vehicle may have been damaged, whether a vehicle has been repaired or to what degree a damaged vehicle has been repaired.

(2) "Assembled vehicle" as defined in ORS 801.130 and these rules means a vehicle:

(a) With a body that does not resemble any particular year model or make of vehicle;

(b) That is not a vehicle rebuilt by a manufacturer;

(c) That is not a vehicle built in a factory where the year model and make are assigned at the factory; and

(d) That is not an antique vehicle, a vehicle of special interest, a reconstructed vehicle or a replica.

(3) The following title brands defined under this section are adopted pursuant to 2009 Or. Laws, Ch. 448 and ORS 803.015. Title brands indicate a determination of a vehicle's condition made by another jurisdiction, or in the case of "glider kit," "reconstructed," "replica vehicle," "totaled" or "Lemon Law Buyback," a determination made by Oregon DMV:

(a) "Branded" means:

(A) A listing of two or more brands on an out-of-state title or similar document; or

(B) A brand not specifically defined or identified under this rule.

(b) "Flood damaged," "flood," or a word of similar import means a brand to indicate that a vehicle has been submerged in water to the point that the vehicle sustained damage;

(c) "Glider kit" or a word of similar import means a brand to indicate:

(A) A kit consisting of a new truck cab or cab and hood assembly, including a front axle assembly and frame rails, with or without an engine, transmission and rear axle, manufactured and sold with a manufacturer's statement of origin, has been used to replace damaged or worn components of an existing heavy truck or tractor; or

(B) A heavy truck or tractor was assembled using a kit consisting of all new component parts, including engine, transmission and rear axle, manufactured and sold with a manufacturer's statement of origin, and assembled by a person other than the manufacturer of the components.

(C) For purposes of this subsection, "heavy truck or tractor" means truck or tractor with a gross vehicle weight rating of more than 16,000 pounds.

(d) "Lemon," "lemon-defective," "Lemon Law Buyback," "returned to manufacturer," or a word of similar import means a brand to indicate a vehicle was returned to the manufacturer because of a defect or condition that could not be corrected or repaired and that substantially impaired the safety, market value, or the use, or intended use, of the vehicle.

(e) "Previous damage" means a title brand issued by DMV prior to August 20, 2004, to indicate that DMV had received information from another jurisdiction that a vehicle was damaged, destroyed, wrecked or salvaged, or words of similar import. The term "previous damage" does not apply to vehicles issued a junk title or similar ownership document by another jurisdiction as described under OAR 735-020-0070;

(f) "Reconstructed vehicle," or "reconstructed" as defined in ORS 801.408 and these rules, means either:

(A) A vehicle that:

- (i) Has a body that resembles and primarily is a particular year model or make of vehicle;
 - (ii) Is not a vehicle rebuilt by a manufacturer;
 - (iii) Is not a vehicle built in a factory where the year model and make are assigned at the factory;
- and
- (iv) Is not a replica; or
- (B) A motor truck that has been rebuilt using a component kit if the manufacturer of the kit assigns a vehicle identification number and provides a manufacturer's certificate of origin for the kit.
- (g) "Totaled vehicle" or "totaled" as defined in ORS 801.527 and these rules means a vehicle that:
- (A) Is declared a total loss by an insurer that is obligated to cover the loss or that the insurer takes possession of or title to.
 - (B) Is stolen, if it is not recovered within 30 days of the date that it is stolen and if the loss is not covered by an insurer.
 - (C) Has sustained damage that is not covered by an insurer and the estimated cost to repair the vehicle is equal to at least 80 percent of the retail market value of the vehicle before it was damaged. For purposes of this subsection, "retail market value" shall be as reflected in publications relied upon by financial institutions doing business in this state, including but not limited to the Title and Registration Textbook of the National Automobile Dealers Association (N.A.D.A. Guide), the Automobile Red Book or the Kelley Blue Book .
 - (h) "Replica" as defined in ORS 801.425 and these rules, means a vehicle with a body built to resemble and be a reproduction of another vehicle of a given year and given manufacturer.
- (4) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation;
- (5) "Oregon Certificate of Title" or "Oregon title" means a certificate of title, as that term is defined in ORS 801.185, issued by DMV.
- (6) "Oregon Salvage Title Certificate" means a written document issued by DMV under the provisions of ORS 803.140 and 819.016 as evidence of vehicle ownership. An Oregon Salvage Title Certificate is not an Oregon Certificate of Title.
- (7) "Salvage title," "salvage certificate" and "dismantler (wrecker) bill of sale" means a document issued by another jurisdiction to indicate the vehicle has been damaged, wrecked or salvaged or words of similar import. "Salvage title" does not refer to an Oregon salvage title certificate as defined by ORS 801.454 and this rule, unless the Oregon salvage title certificate reflects a brand that indicates the vehicle was damaged in another jurisdiction, before being titled in Oregon.
- (8) "Word(s) of similar import" means any word, term, indicator, symbol or phrase that means the same or has the same effect as the terms described under OAR 735-020-0070 (junk titles) and defined under sections (2) and (3) of this rule.
- (9) For purposes of this rule, OAR chapter 735, division 024, division 152, ORS Chapters 819 and 822, "Auto Recycler" has the same meaning as "dismantler" as defined under ORS 801.236 and means a person issued a dismantler certificate under ORS 822.110.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.140, 819.016, 821.060 and 2009 Or. Laws, Ch. 448

Stats. Implemented: ORS 803.015, 803.420 and 2009 Or. Laws, Ch. 448

735-024-0025

Title Brands; When Issued, Removed and Exceptions

- (1) When Issued. DMV will issue a branded title or a title with an “assembled” make when an application for an Oregon title is submitted and:
 - (a) The vehicle’s title carries a brand(s) described under OAR 735-024-0015(2) and (3);
 - (b) Pursuant to 2009 Or. Laws, Ch. 448, DMV receives notice from a vehicle manufacturer to inscribe “Lemon Law Buyback” on the certificate of title for the vehicle.
 - (c) The vehicle meets the definition of an “Assembled vehicle” as defined under OAR 735-024-0015(2); or
 - (d) The vehicle meets the definition of a “Reconstructed Vehicle,” a “Replica” or a “Totaled vehicle” as those terms are defined under OAR 735-024-0015.
 - (e) Will be issued with a brand or “assembled” make described under OAR 735-024-0015 when:
- (2) An Oregon title issued under section (1) of this rule:
 - (a) Will not necessarily be issued with the same brand that appeared on the vehicle’s previous certificate of title or other ownership document(s);
 - (b) Will be issued with a brand described under OAR 735-024-0015 determined by DMV to be most comparable to the brand that appeared on the previous certificate of title. This subsection does not apply to a “branded” brand or an Oregon title with a “Lemon Law Buyback” brand, issued pursuant to 2009 Or. Laws, Ch. 448;
 - (c) Will indicate the name of the jurisdiction that issued the title brand, unless the title brand was issued by DMV; and
 - (d) Will be issued with a brand or “assembled” make described under OAR 735-024-0015 when DMV determines from a previous title or vehicle record, from the application for title or from information obtained from any source that a brand or “assembled” make should be placed on the Oregon title as set forth in section (1) of this rule. DMV may require documentation to determine if a vehicle should be issued an Oregon title with an “assembled” make, or a “reconstructed” or “replica” brand.
- (3) Except as specifically provided in section (4) of this rule, once a title brand or “assembled” make has been placed on a vehicle’s Oregon Certificate of Title that brand or “assembled” make will appear on any subsequent Oregon title issued for the vehicle.
- (4) DMV may omit, remove, add or change a title brand or “assembled” make when:
 - (a) DMV receives information that indicates an Oregon title or Oregon Salvage Title Certificate was issued with an incorrect brand or “assembled” make. For example, DMV receives written information from an originating jurisdiction that indicates its title incorrectly reflects a title brand;
 - (b) DMV is satisfied the title brand or “assembled” make was placed on the Oregon title or Oregon Salvage Title Certificate in error;
 - (c) DMV failed to place a title brand or “assembled” make on the Oregon title or Oregon Salvage Title Certificate when required under section (1) of this rule or subsections (d), (e) and (f) of this section.
 - (d) A subsequent accident or occurrence causes the vehicle to be identified with a brand or different brand such as “totaled,” “reconstructed,” or “Lemon Law Buyback” issued pursuant to 2009 Or. Laws, Ch. 448.
 - (e) A vehicle issued an Oregon title with any brand or an “assembled” make other than totaled is reported to DMV as a totaled vehicle under ORS 819.012 or 819.014. Except as described in subsection (f) of this section, if DMV issues a new Oregon title, it will include a totaled brand, which replaces any previous brand shown on the Oregon title. For example, a vehicle issued an Oregon title with a flood brand will be issued an Oregon title with a totaled-reconstructed brand

when the vehicle is reported to DMV as a totaled vehicle and is subsequently titled as a reconstructed vehicle;

(f) Notwithstanding subsection (e) of this section, a vehicle issued an Oregon title with an “assembled” make, or glider kit, “Lemon Law Buyback” issued pursuant to 2009 Or. Laws, Ch. 448, reconstructed or replica brand is reported to DMV as a totaled vehicle. If DMV issues a new Oregon title, it will include the original brand and a totaled brand. For example, a vehicle issued an Oregon title with a “replica” brand that is later reported to DMV as “totaled” under ORS 819.020 or 819.014, will be issued an Oregon title with a “replica-totaled-reconstructed” brand when the vehicle is reported to DMV as a totaled vehicle and is subsequently titled as a reconstructed vehicle; or

(g) The reason the vehicle was reported to DMV as a totaled vehicle is theft and the vehicle is recovered and no longer meets the definition of a “totaled vehicle” under ORS 801.527.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.012, 803.015, 803.0140, 819.016, 821.060 and 2009 Or. Laws, Ch. 448

Stats. Implemented: ORS 803.015, 803.420 and 2009 Or. Laws, Ch. 448