

Chapter 822

1991 EDITION

Regulation of Vehicle Related Businesses

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VEHICLE DEALERS

822.005 Acting as vehicle dealer without certificate; penalty. (1) A person commits the offense of acting as a vehicle dealer without a certificate if the person is not the holder of a valid, current vehicle dealer certificate issued under ORS 822.020 and the person buys, sells, trades or exchanges vehicles either outright or by means of any conditional sale, bailment, lease, security interest, consignment or otherwise.

(2) This section does not apply to persons or vehicles exempted from this section under ORS 822.015.

(3) The offense described in this section, acting as a vehicle dealer without a certificate, is a Class A misdemeanor. [1983 c.338 §790; 1985 c.16 §389; 1985 c.598 §1]

822.007 Injunction against person acting as vehicle dealer in violation of vehicle code or rule; court-imposed monetary penalties. (1) In addition to any other remedies provided by law, the division may petition the circuit court to enjoin a person from acting as a vehicle dealer in violation of the Oregon Vehicle Code or any rule adopted by the division.

(2) A single act in violation of the provisions of the Oregon Vehicle Code or of any rules adopted by the division relating to vehicle dealers shall be sufficient ground for the court to issue the injunction.

(3) In addition to issuing an injunction, the court may assess a penalty not to exceed \$15,000 if the division proves by a preponderance of the evidence that a person is acting as a vehicle dealer without possessing a vehicle dealer certificate. The court shall also award reasonable costs and disbursements, attorney and enforcement fees. [1991 c.541 §2]

822.009 Civil penalties for violations of statutes or rules. (1) The division may levy and collect a civil penalty, in an amount not to exceed \$1,000 for each violation, against any person who has a vehicle dealer certificate if it finds that the dealer has violated any provisions of the Oregon Vehicle Code or of any rules adopted by the division relating to the sale of vehicles, vehicle titling or vehicle registration.

(2) The division may levy and collect a civil penalty, in an amount not to exceed \$5,000 for each violation, against any person if it finds that the person is in violation of ORS 822.005 (1) and (2) or of any rules adopted by the division relating to the sale of vehicles. [1991 c.541 §3]

822.010 Unlawful display or sale of vehicle without certificate; exemptions; penalty. (1) A person commits the offense of

unlawful display or sale of a vehicle without a vehicle dealer certificate if the person is not a vehicle dealer issued a certificate under ORS 822.020 and the person does any of the following:

(a) Displays a new or used motor vehicle, trailer or semitrailer for sale.

(b) Acts as any type of agent for the owner of a vehicle to sell the vehicle or acts as any type of an agent for a person interested in buying a vehicle to buy a vehicle.

(2) The following people are not subject to any prohibition or penalty under this section:

(a) A person who has an exemption under ORS 822.015.

(b) A person who receives no money, goods or services, either directly or indirectly, for displaying a vehicle or acting as an agent.

(3) The offense described in this section, unlawful display or sale of a vehicle without a vehicle dealer certificate, is a Class A misdemeanor. [1985 c.16 §388; 1989 c.171 §93]

822.015 Exemptions from vehicle dealer certification requirement. In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

(1) Road rollers, farm tractors, traction engines, trolleys, and implements of husbandry.

(2) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person owned the vehicle primarily for personal, family or household purposes. If the person has sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year, the person shall have the burden of proving that the person owned the vehicles primarily for personal, family or household purposes or for other purposes which the division, by rule, defines as constituting an exemption under this section.

(3) A receiver, trustee, personal representative or public officer while performing any official duties.

(4) A real estate licensee representing a buyer or seller in a transaction involving a mobile home considered real property under ORS 308.875 or 820.510.

(5) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by any jurisdiction.

(6) Except as otherwise provided in this subsection, a manufacturer who sells vehicles the manufacturer has manufactured in Oregon or mobile homes that the manufacturer has manufactured anywhere. Nothing

in this subsection prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This subsection does not exempt a manufacturer who sells or trades campers or travel trailers.

(7) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is disposing of vehicles for salvage.

(8) Except as otherwise provided in this subsection, a person who sells or trades or offers to sell or trade a vehicle that has been used in the operation of the person's business. This subsection does not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles. [1983 c.338 §791; 1985 c.16 §390; 1985 c.316 §8; 1985 c.598 §2; 1987 c.217 §10; 1987 c.261 §6; 1991 c.541 §8]

822.020 Issuance of certificate; fee. The division shall issue a vehicle dealer certificate to any person if the person meets all of the following requirements:

(1) The person must complete the application for a dealer certificate described under ORS 822.025.

(2) The person must deliver to the division a bond or letter of credit that meets the requirements under ORS 822.030.

(3) The person must deliver to the division a certificate of insurance that meets the requirements established by ORS 822.033.

(4) The person must pay the fee required under ORS 822.700 for issuance of a vehicle dealer certificate. [1983 c.338 §792; 1985 c.16 §391; 1989 c.434 §1; 1991 c.331 §144]

822.025 Application; contents. An application for a vehicle dealer certificate issued by the division under ORS 822.020 shall be upon a form prescribed and furnished by the division, shall be signed by the applicant and shall contain all of the following:

(1) A full statement of the names of the persons applying with their residence and business addresses:

(a) If the applicant is a firm or partnership, the name of the firm or partnership with the names and places of residence of all members thereof:

(b) If the applicant is a corporation, the names of the principal officers and their residences, the name of the state under whose laws the corporation is organized and the location of the places at which the business is to be carried on and conducted.

(2) The name under which the business is to be conducted.

(3) The state, city and county where the business is or is to be located.

(4) The name and make of all vehicles handled.

(5) Whether or not used vehicles are handled.

(6) A certificate from the applicant showing that the applicant is or will be a dealer in vehicles who has established or will be establishing a vehicle business at the location given.

(7) A certificate signed by a person authorized by the local governing body to do so, stating that the location of the business or proposed business complies with any land use ordinances or business regulatory ordinances of the city or county.

(8) Any information required by the division to efficiently administer the registration of vehicles and regulation of dealers or other relevant information required by the division. [1983 c.338 §793; 1985 c.598 §3]

822.030 Bond or letter of credit requirements; action against dealer and surety. (1) A bond or letter of credit required to qualify for a vehicle dealer certificate under ORS 822.020 or to qualify for renewal of a certificate under ORS 822.040 must comply with all of the following:

(a) The bond shall have a corporate surety licensed to do business within this state. A letter of credit shall be an irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005. The surety or bank shall notify the division if the bond or letter of credit is canceled for any reason. The surety or bank shall continue to be liable under the bond or letter of credit until the division receives the notice required by this paragraph, or until the cancellation date specified in the notice, whichever is later.

(b) The bond or letter of credit shall be executed to the State of Oregon.

(c) Except as otherwise provided in this paragraph, the bond or letter of credit shall be in the following sum:

(A) If the applicant is seeking a certificate to be a dealer exclusively in motorcycles, mopeds, Class I all-terrain vehicles or snowmobiles or any combination of those vehicles, the bond or letter of credit shall be for \$2,000.

(B) Except as provided in subparagraph (A) of this paragraph, if the applicant is seeking a certificate to be a vehicle dealer, the bond or letter of credit shall be for \$15,000.

(d) The bond or letter of credit described in this subsection shall be approved as to form by the Attorney General.

(e) The bond or letter of credit must be conditioned that the person issued the cer-

tificate shall conduct business as a vehicle dealer without fraud or fraudulent representation and without violating any provisions of the vehicle code relating to vehicle registration, vehicle permits, the transfer or alteration of vehicles or the regulation of vehicle dealers.

(f) The bond or letter of credit must be filed and held in the office of the division.

(2) Any person shall have a right of action against a vehicle dealer, against the surety on the vehicle dealer's bond and against the letter of credit in the person's own name if the person suffers any loss or damage by reason of the vehicle dealer's fraud, fraudulent representations or violations of provisions of the vehicle code relating to:

- (a) Vehicle registration;
 - (b) Vehicle permits;
 - (c) The transfer or alteration of vehicles;
- or
- (d) The regulation of vehicle dealers.

(3) If the certificate of a vehicle dealer is not renewed or is voluntarily or involuntarily canceled, the sureties on the bond and the issuer of the letter of credit are relieved from liability that accrues after the division cancels the certificate. [1983 c.338 §794; 1985 c.16 §392; 1985 c.598 §6; 1987 c.261 §7; 1989 c.434 §2; 1991 c.331 §145]

822.033 Requirements for certificate of insurance. A certificate of insurance required to qualify for a vehicle dealer certificate under ORS 822.020 or to qualify for renewal of a certificate under ORS 822.040 must comply with all of the following:

- (1) The certificate shall:
 - (a) Be issued by an insurance carrier licensed to do business within this state;
 - (b) Show that the dealer is insured by a policy that provides the minimum limits of coverage required under ORS 806.070;
 - (c) Show that the dealer is insured by a policy that provides for payment of judgments of the type described in ORS 806.040;
 - (d) Show that the dealer is insured by a policy covering all vehicles manufactured, owned, operated, used or maintained by or under the control of the dealer;
 - (e) Show that the dealer is insured by a policy that also covers all other persons who, with the consent of the dealer, use or operate vehicles manufactured, owned or maintained by or under the control of the dealer;
 - (f) Be dated as of the date of the motor vehicle policy for which it is given;

(g) Contain the policy number; and

(h) Provide that the insurer shall give the division written notice of any cancellation of the policy and that the insurer shall continue to be liable under the policy until the division receives the notice required by this paragraph or until the cancellation date specified in the notice, whichever is later.

(2) The certificate of insurance must be filed and held in the office of the division.

(3) A dealer is exempt from the requirement to file the certificate of insurance described in this section if the dealer certifies, in such form as may be required by the division, that the dealer:

(a) Will be dealing exclusively in vehicles of a type exempted from financial responsibility requirements under ORS 806.020 (1) to (6);

(b) Will be dealing exclusively in mobile homes; or

(c) Will conduct business in such a manner that the dealer does not have ownership, control or possession of any vehicle. [1989 c.434 §3a]

822.035 Division investigation of application; dealer number; rules; records inspection; dealer plates and identification card. The division:

(1) Upon receipt of an application for a vehicle dealer certificate, shall examine the application and may make an individual investigation relative to statements contained in the application.

(2) Upon being satisfied that an applicant is entitled to a vehicle dealer certificate and that the proper fees have been paid for the certificate, shall assign the vehicle dealer a distinctive dealer number that allows the dealer to conduct business under the certificate and shall forward to the dealer a vehicle dealer certificate stating thereon the dealer's number.

(3) Has authority to determine whether or not an applicant for a vehicle dealer certificate is a vehicle dealer.

(4) Has authority to make suitable rules for the issuance of vehicle dealer certificates to expire consistently with ORS 822.040.

(5) Shall make inspections of any vehicle dealer records required under ORS 822.045 and of any vehicles included in a vehicle dealer's inventory or located on the vehicle dealer's premises. Inspections required by this subsection shall be conducted by the division at reasonable intervals, during normal business hours, and shall not exceed a scope of inspection necessary for the division to determine the following:

(a) A vehicle dealer's compliance with statutes regulating vehicle dealers under the vehicle code;

(b) A vehicle dealer's compliance with those provisions of the vehicle code regulating the titling and registration of vehicles;

(c) A vehicle dealer's compliance with rules adopted by the division relating to the regulation of vehicle dealers and the registration and titling of vehicles; and

(d) The identification of stolen vehicles.

(6) Shall provide a vehicle dealer with plates described under ORS 805.200 to allow the exercise of the privileges granted under ORS 822.040.

(7) May provide a vehicle dealer with identification cards in the names of the owners of the business or in the names of authorized employees of the business.

(8) May adopt any reasonable rules necessary for the administration of the laws relating to the regulation of vehicle dealers, the issuance of vehicle dealer certificates, the issuance of vehicle dealer identification cards and the issuance of vehicle dealer plates. The rules adopted under this subsection must be consistent with the statutory provisions of the vehicle code. The rules may include, but are not limited to, grounds and procedures for the revocation, denial or suspension of vehicle dealer certificates and for placing vehicle dealers on probationary status. [1983 c.338 §796; 1985 c.16 §394; 1987 c.261 §7a]

822.040 Privileges granted by certificate; supplemental certificate; duration; renewal; rules. (1) The holder of a current, valid vehicle dealer certificate issued under ORS 822.020 may exercise the following privileges under the certificate:

(a) A dealer is authorized, without violating ORS 803.025 or 803.300 to use and operate over and along the highways of this state all vehicles displaying the dealer's plates whether registered or not or whether or not a certificate of title is issued for the vehicle subject to the following:

(A) This paragraph does not authorize dealers to use or operate vehicles under dealer plates unless the vehicles are actually owned or controlled by the dealer and in actual use by the dealer, members of the dealer's firm, any salesman thereof or any person authorized by the dealer. Vehicles operated under dealer plates may be used for the same purposes as are any other vehicles registered in this state that are registered by payment of the fee under ORS 803.420 (1). This paragraph is subject to the limitations under ORS 822.045.

(B) Nothing in this paragraph allows dealers to use or operate mobile homes under

dealer plates. All movement of mobile homes by dealers shall be by trip permits issued under ORS 803.600 and 820.560.

(C) Vehicles registered or titled in another state, country, province, territory or the District of Columbia are subject to the provisions under ORS 803.300 and 803.305 applicable to such vehicles.

(b) A dealer is entitled to receive dealer plates and replacement or additional dealer plates. As many additional dealer plates as may be desired may be obtained upon the filing of a formal application for additional plates with the division. The plates issued to dealers shall be of the description under ORS 805.200, and shall require the payment of fees as provided under ORS 805.250.

(c) The person is not subject to the prohibitions and penalties under ORS 822.005 as long as the holder's vehicle dealer business is conducted in a location approved under the certificate.

(d) The dealer shall be considered the owner of vehicles manufactured or dealt in by the dealer, before delivery and sale of the vehicles, and of all vehicles in the dealer's possession and operated or driven by the dealer or the dealer's employees.

(2) The holder of a vehicle dealer certificate may move a place of business approved under the certificate or open additional places of business under the same business name by obtaining a supplemental certificate from the division under this subsection. The following all apply to a supplemental certificate issued under this subsection:

(a) The division shall not issue a supplemental certificate under this subsection if the business moved or opened will be operated under a different business name than that indicated on the current certificate. Any business that a vehicle dealer operates under a separate business name must be operated under a separate certificate and the dealer must apply for and pay the fees for a regular dealer certificate for the business.

(b) A supplemental certificate issued under this subsection is subject to the fee for supplemental certificate renewal under ORS 822.700 upon annual renewal.

(3) A vehicle dealer certificate is valid for a one-year period and may be renewed as provided by the division. The division shall only renew a certificate if the applicant for renewal does all of the following:

(a) Pays the required annual fee for renewal under ORS 822.700.

(b) Delivers to the division a bond that meets the requirements under ORS 822.030.

(c) Delivers to the division a certificate of insurance that meets the requirements under ORS 822.033.

(4) The division may adopt suitable rules for the issuance and renewal of certificates under this section and ORS 822.020. [1983 c.338 §795; 1985 c.16 §393; 1985 c.174 §12; 1985 c.400 §5; 1985 c.598 §7a; 1989 c.434 §4]

822.042 Procedures for transfer of title by vehicle dealer. (1) A vehicle dealer transferring title or any interest in a vehicle or camper shall:

(a) Within 25 calendar days of the transfer furnish the certificate of title or other primary ownership document for the vehicle and any release thereon to the security interest holder next named, if any, otherwise to the lessor or, if none, to the purchaser;

(b) Within 30 calendar days of the transfer submit to the division in a manner that complies with any applicable statutes and rules, an application for title on behalf of the person to whom the title is to be furnished; or

(c) Within 25 business days of the transfer provide a notice of delay to the security interest holder next named, if any, the lessor, if any, and the purchaser. The notice shall contain:

(A) The reason for the delay;

(B) The anticipated extent of the delay; and

(C) A statement of the rights and remedies available to the purchaser if the delay becomes unreasonably extended.

(2) A vehicle dealer shall maintain records as determined by the division by rule to show whether the dealer has complied with subsection (1) of this section.

(3) A vehicle dealer that fails to comply with the provisions of subsection (1) of this section is subject to revocation, cancellation or suspension of the dealer's certificate pursuant to ORS 822.050.

(4) The provisions of this section do not apply to the transfer of title or any interest in a mobile home if the transfer is subject to an escrow transaction. [1989 c.452 §2; 1991 c.873 §44]

822.045 Vehicle dealer offenses; penalties. (1) A vehicle dealer improperly conducts a vehicle dealer business and is subject to the penalties under this section if the vehicle dealer commits any of the following offenses:

(a) A vehicle dealer commits the offense of failure to obtain a supplemental vehicle dealer certificate if the vehicle dealer moves a place of business approved under a vehicle dealer certificate or opens any additional

place of business using the same business name as a place of business approved under a vehicle dealer certificate without first obtaining a supplemental dealer certificate under ORS 822.040.

(b) A vehicle dealer commits the offense of failure to maintain proper vehicle dealer records if the dealer does not keep records or books with all of the following information concerning any used or secondhand vehicles or campers the dealer deals with:

(A) A record of the purchase, sale or exchange or of the dealer's receipt for purpose of sale.

(B) A description of the vehicle or camper.

(C) The name and address of the seller, the purchaser and the alleged owner or other person from whom the vehicle or camper was purchased or received or to whom it was sold or delivered.

(D) For motor vehicles, the vehicle identification number and any other numbers or identification marks as may be thereon and a statement that a number has been obliterated, defaced or changed, if such is a fact.

(E) For trailers and campers, the vehicle identification number and any other numbers or identification marks as may be thereon.

(F) A duly assigned certificate of title or other primary ownership document or a bill of sale from the registered owner of the vehicle or camper from the time of delivery to the dealer until the dealer disposes of the vehicle or camper.

(c) A vehicle dealer commits the offense of failure to allow administrative inspection if the dealer refuses to allow the division to conduct an inspection under ORS 822.035 at any time during normal business hours.

(d) A vehicle dealer commits the offense of failure to allow police inspection if the dealer refuses to allow any police officer to conduct an inspection under ORS 810.480 at any time during normal business hours.

(e) A vehicle dealer commits the offense of improper dealer movement of a mobile home if the dealer moves a mobile home on the highways of this state without first obtaining a trip permit under ORS 803.600 and 820.560.

(f) A vehicle dealer commits the offense of illegal use of dealer vehicle for hire if the dealer allows any vehicle operated under vehicle dealer registration plates issued under ORS 805.200 to be loaned or rented with or without driver for hire or direct compensation.

(g) A vehicle dealer commits the offense of improper use of dealer plates if the dealer

or employee of the dealer causes or permits the display or use of any special vehicle dealer registration plate on any vehicle not owned or controlled by the dealer.

(h) A person commits the offense of improper display of dealer plates if the person operates over and along the highways of this state any unregistered vehicle owned or controlled by the dealer and the dealer plates are not displayed in the manner provided in ORS 803.540 for the display of registration plates.

(i) A vehicle dealer commits the offense of failure to exhibit the dealer certificate if the dealer fails to permanently exhibit the certificate at the place of business of the person at all times while the certificate is in force.

(j) A vehicle dealer commits the offense of failure to provide clear title if, within 15 days of transfer of title or any interest in a vehicle or camper by the dealer the dealer fails to satisfy:

(A) The interest of any person from whom the dealer purchased or obtained the vehicle or camper;

(B) The interest of any person from whom the person described in subparagraph (A) of this paragraph leased the vehicle or camper; and

(C) All security interests in the vehicle or camper entered into prior to the time of transfer.

(k) Except as provided in subsection (2) of this section, a vehicle dealer commits the offense of failure to furnish certificate of title if, within 90 calendar days of transfer of title or any interest in a vehicle or camper by the dealer, the dealer has failed to:

(A) Furnish the certificate of title or other primary ownership document for the vehicle or camper and any release thereon to the security interest holder next named, if any, otherwise to the lessor or, if none, to the purchaser; or

(B) Submit to the division in a manner that complies with any applicable statutes and rules, an application for title on behalf of the person to whom the title is to be furnished.

(2) A dealer shall not be considered to have committed the offense described in paragraph (k) of subsection (1) of this section if the dealer demonstrates that:

(a) The dealer has made a good faith effort to comply; and

(b) The dealer's inability to provide title is due to circumstances beyond the dealer's control.

(3) The offenses described in this section are subject to the following penalties:

(a) The offense described in this section, failure to obtain a supplemental vehicle dealer certificate, is a Class A misdemeanor.

(b) The offense described in this section, failure to maintain proper vehicle dealer records, is a Class A misdemeanor.

(c) The offense described in this section, failure to allow administrative inspection, is a Class A misdemeanor.

(d) The offense described in this section, failure to allow police inspection, is a Class A misdemeanor.

(e) The offense described in this section, improper dealer movement of a mobile home, is a Class B traffic infraction.

(f) The offense described in this section, illegal use of dealer vehicle for hire, is a Class B traffic infraction.

(g) The offense described in this section, improper use of dealer plates, is a Class C traffic infraction.

(h) The offense described in this section, improper display of dealer plates, is a Class B traffic infraction.

(i) The offense described in this section, failure to exhibit the dealer certificate, is a Class A misdemeanor.

(j) The offense described in this section, failure to provide clear title, is a Class A misdemeanor.

(k) The offense described in this section, failure to furnish certificate of title, is a Class A misdemeanor. [1983 c.338 §797; 1985 c.16 §395; 1985 c.598 §8; 1987 c.261 §8; 1989 c.452 §3; 1991 c.873 §45]

822.050 Revocation, cancellation or suspension of certificate. (1) The division may revoke, suspend or place on probation a vehicle dealer if the division determines at any time for due cause that the dealer has done any of the following:

(a) Violated any grounds for revocation, suspension or probation adopted by the division by rule under ORS 822.035.

(b) Failed to comply with the requirements of the vehicle code with reference to notices or reports of the transfer of vehicles or campers.

(c) Moved or caused a mobile home to be moved without complying with the requirements for trip permits under ORS 820.560.

(d) Caused or suffered or is permitting the unlawful use of any certificate or registration plates.

(e) Violated or caused or permitted to be violated ORS 815.410, 815.415, 815.425 or 815.430.

(f) Falsely certified under ORS 822.033 that the dealer is exempt from the requirement under ORS 822.020 or 822.040 to file a certificate of insurance.

(g) Continued to fail to provide clear title or repeatedly failed to provide clear title in violation of ORS 822.045.

(2) The division shall cancel a vehicle dealer certificate immediately upon receipt of legal notice that the bond described under ORS 822.030 is canceled.

(3) The division shall cancel a vehicle dealer certificate immediately upon receipt of notice that the certificate of insurance required under ORS 822.033 is canceled.

(4) Upon revocation, cancellation or suspension of a vehicle dealer certificate under this section, the division shall recall and demand the return of the certificate and any vehicle dealer registration plates issued under ORS 805.200. [1983 c.338 §798; 1985 c.16 §396; 1985 c.251 §26; 1987 c.158 §176; 1989 c.434 §5; 1989 c.452 §4]

822.055 Failure to return revoked, canceled or suspended certificate; penalty. (1) A person commits the offense of failure to return a revoked, canceled or suspended vehicle dealer certificate if the division recalls and demands the person to return any certificate or registration plates under ORS 822.050 and the person has those items requested and does not return them to the division without further demand.

(2) The offense described in this section, failure to return revoked, canceled or suspended vehicle dealer certificate, is a Class A misdemeanor. [1983 c.338 §799; 1985 c.393 §56; 1987 c.158 §177]

822.060 Illegal consignment practices; penalty. (1) A vehicle dealer issued a certificate under ORS 822.020 commits the offense of illegal consignment practices if the dealer does any of the following:

(a) Takes a vehicle on consignment and does not have proof that the consignor is the registered owner, a security interest holder or lessor of the vehicle.

(b) Takes a vehicle on consignment from a security interest holder without the security interest holder first completing a repossession action prior to consigning the vehicle and providing the dealer with proper documentary proof of the repossession action.

(c) Takes a vehicle on consignment and does not have the terms of the consignment agreement in writing and provide a copy of the agreement to the consignor.

(d) Sells a vehicle that the dealer has on consignment and does not pay the consignor within 30 days of the sale.

(e) Sells a vehicle that the dealer has on consignment and does not either provide the purchaser with the title to the vehicle or with other primary ownership documents or apply to the division in the purchaser's name for title to the vehicle within 30 days of the sale.

(f) Does not allow the division or any duly authorized representative to inspect and audit any records of any separate accounts into which the dealer deposits any funds received or handled by the dealer or in the course of business as a dealer from consignment sale of vehicles at such times as the division may direct.

(g) Takes any part of any money paid to the dealer in connection with any consignment transaction as part or all of the dealer's commission or fee until the transaction has been completed or terminated.

(h) Does not make arrangement for the disposition of money from a consignment transaction with the seller at the time of establishing a consignment agreement.

(2) The offense described in this section, illegal consignment practices, is a Class A misdemeanor. [1985 c.16 §398; 1991 c.873 §46]

822.065 Violation of consigned vehicle transfer; penalty. (1) A person commits the offense of violation of a consigned vehicle transfer if the person consigns a vehicle to a vehicle dealer issued a certificate under ORS 822.020 and the person fails or refuses to deliver the title or other primary ownership document for the vehicle to the dealer or purchaser upon sale of the vehicle under consignment.

(2) The offense described in this section, violation of a consigned vehicle transfer, is a Class A misdemeanor. [1985 c.16 §399; 1991 c.873 §47]

822.070 Conducting illegal vehicle rebuilding business; penalty. (1) A person commits the offense of conducting an illegal vehicle rebuilding business if the person is not the holder of a valid current dealer's certificate issued under ORS 822.020 and the person does any of the following as part of a business:

(a) Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles.

(b) Engages in making assembled, reconstructed or substantially altered vehicles from motor vehicle components.

(2) This section does not apply to the following persons or vehicles:

(a) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is disposing of vehicles for salvage.

(b) A person who assembles, rebuilds or reconstructs not more than two vehicles in any one-year period.

(c) Roadrollers, farm tractors, trolleys, traction engines, implements of husbandry, well-drilling machinery, fire wagons or fire engines.

(d) Motor vehicles that are not of a type required to be registered under the vehicle code.

(e) The holder of a wrecker's license issued under ORS 822.110.

(3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a Class A misdemeanor. [1985 c.16 §400]

822.075 Notice of civil action on mobile home held in inventory; penalty for removal. (1) Upon taking any action authorized by ORS 822.007 or 822.009, the division may post a notice of civil action on any mobile home held in inventory by a person acting as a vehicle dealer without a certificate. The notice shall inform the public that the person offering the mobile home for sale is currently the subject of a judicial or administrative proceeding in order to determine whether the person does not hold a vehicle dealer certificate as required by law and that it therefore may be unlawful for the person to sell the mobile home to a retail customer.

(2) A notice posted in accordance with subsection (1) of this section may be removed only upon authorization by the division. The division shall authorize removal within 10 days after any one of the following:

(a) The dismissal or termination of the proceeding instituted under ORS 822.007 or 822.009;

(b) The person has fully paid any lawfully owing civil penalty and is otherwise in compliance with the provisions of this chapter; or

(c) The division finds that the mobile home is being offered for sale by a person who holds a vehicle dealer certificate or a person who is exempted by the provisions of ORS 822.015 from the certification requirement.

(3) The division may levy and collect a civil penalty, in an amount not to exceed \$5,000 per occurrence, against any person who removes a notice posted in accordance with subsection (1) of this section without authority to do so. [1991 c.541 §6]

822.080 Procedures for civil penalties imposed under ORS 822.009 or 822.075; disposition of moneys. (1) Civil penalties under ORS 822.009 or 822.075 shall be imposed in the manner provided in ORS 183.090.

(2) An application for a hearing on a civil penalty imposed under ORS 822.009 or 822.075:

(a) Must be in writing;

(b) Must be postmarked or received by the division within 20 days from the date of service of the notice provided for in ORS 183.090;

(c) Must state the name and address of the person requesting a hearing; and

(d) Must state the action being contested.

(3) Hearings on civil penalties imposed under ORS 822.009 or 822.075 shall be conducted before a representative of the division.

(4) The division may, at its option, assign any unpaid civil penalty to the Department of Revenue for collection. The department shall deduct reasonable expenses from any amounts collected.

(5) All civil penalties received under ORS 822.009 or 822.075 shall be paid into the State Treasury each month and credited to the account of the Motor Vehicles Division. [1991 c.541 §§5, 11]

WRECKERS

822.100 Conducting a wrecking business without a certificate; penalty. (1) A person commits the offense of conducting a wrecking business without a certificate if the person is not the holder of a valid, current wrecker certificate issued under ORS 822.110 and the person does any of the following:

(a) Carries on or conducts, in whole or in part, the business of buying, selling or dealing in vehicles for the purpose of wrecking, dismantling, disassembling and offering for sale the used vehicle components thereof.

(b) Carries on or conducts, in whole or in part, the business of buying, selling or dealing in vehicles for the purpose of wrecking, dismantling, disassembling or substantially altering the form of any motor vehicle.

(c) Carries on or conducts, in whole or in part, the business of selling at wholesale wrecked, dismantled, disassembled or substantially altered vehicles.

(d) Engages in the activity of wrecking, dismantling, disassembling or substantially altering vehicles including the crushing, compacting or shredding of vehicles.

(2) The offense described in this section does not apply to persons or vehicles exempted from this section under ORS 822.105.

(3) The offense described in this section, conducting a wrecking business without a certificate, is a Class A misdemeanor. [1983 c.338 §800]

822.105 Exemption from wrecker certificate requirement. In addition to exemptions from the vehicle code under ORS 801.026, ORS 822.100 does not apply to the following:

- (1) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is disposing of vehicles for salvage.
- (2) Road rollers, farm tractors, trolleys or traction engines.
- (3) Implements of husbandry, well-drilling machinery and invalid chairs.
- (4) Golf carts. [1983 c.338 §801; 1985 c.598 §9]

822.110 Wrecker certificate; qualifications; fee; application; local government approvals; bond or letter of credit. The division shall issue a wrecker certificate to any person if the person meets all of the following requirements:

(1) The person must establish that the area approved under the wrecker certificate for use in the wrecking business meets one of the following criteria:

(a) The area is more than 1,100 feet from the nearest edge of the right of way of any state highway.

(b) The business conducted within the area is hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other appropriate means, so as not to be visible from the main traveled way of the highway, in accordance with rules adopted by the State Highway Engineer or a duly authorized representative of the highway engineer.

(c) The area and the business thereon are located in an area zoned for industrial use under authority of the laws of this state.

(2) The person must pay the fee required under ORS 822.700 for issuance of a wrecker certificate.

(3) The person must complete the application for a wrecker certificate described under ORS 822.115.

(4) The person must deliver to the division any approvals by local governments required under ORS 822.140.

(5) The person must deliver to the division a bond or letter of credit that meets the requirements of ORS 822.120. [1983 c.338 §802; 1985 c.16 §401; 1991 c.331 §139]

822.115 Application; contents. An application for a wrecker certificate issued by the division under ORS 822.110 or for renewal of a certificate under ORS 822.125 shall be upon a form prescribed and furnished by the division, signed and verified by the applicant and containing all of the following:

(1) A full statement of the name of the person applying for the certificate with the person's residence and business addresses.

(2) If the applicant is a firm or partnership, the name of the firm or partnership, with the names and places of residence of all its members.

(3) If the applicant is a corporation, the names of the principal officers and their residences and the name of the state under whose laws the corporation is organized.

(4) A description of the dimensions and the location of the place or places at which the business is to be carried on and conducted.

(5) A certification that the right of way of any highway adjacent to the area proposed for approval to conduct the wrecking business under the certificate is used for access to the premises and public parking.

(6) Any other relevant information required by the division. [1983 c.338 §803; 1985 c.16 §402; 1987 c.261 §9]

822.120 Bond or letter of credit requirements; action against certificate holder and surety. (1) A bond or letter of credit required to qualify for a wrecker certificate under ORS 822.110 or renewal of a certificate under ORS 822.125 must be:

(a) With a corporate surety licensed to transact business within this state, or as to a letter of credit, an irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005;

(b) Executed to the State of Oregon;

(c) In the sum of \$2,000;

(d) Approved as to form by the Attorney General;

(e) Conditioned that the person issued the wrecker certificate will conduct business without violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150; and

(f) Conditioned that the bond or letter of credit is subject to an action under this section.

(2) Any person shall have a right of action against the holder of a wrecker certificate and the surety on the holder's bond or the wrecker's letter of credit issuer if the person suffers any loss or damage by reason of the certificate holder's violation of this section, ORS 803.140, 819.010, 819.012, 819.016, 819.040, 822.140 or 822.150. [1983 c.338 §804; 1985 c.16 §403; 1985 c.176 §3; 1991 c.331 §140; 1991 c.820 §17; 1991 c.873 §48]

822.125 Privileges granted by certificate; supplemental certificate; duration; renewal; identification cards; rules. (1) The holder of a current, valid wrecker cer-

tificate issued under ORS 822.110 is not subject to the prohibitions and penalties under ORS 822.100 as long as the holder's wrecking business is conducted in the location approved under the certificate.

(2) The holder of a wrecker certificate may expand the dimensions or move a place of business approved under the wrecker certificate or open an additional place of business under the certificate upon issuance of a supplemental wrecker certificate by the division. The following apply to supplemental certificates issued under this subsection:

(a) The division shall grant a supplemental certificate upon request of an applicant under this subsection if the applicant obtains local government permission for the supplemental certificate under ORS 822.140.

(b) Upon application for renewal of the supplemental certificate, the division may waive the requirement that an applicant for renewal under this subsection obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a wrecking yard or business.

(c) No fee shall be charged for a supplemental wrecker certificate under this subsection.

(3) A wrecker certificate is valid for a one-year period and may be renewed as provided by the division. The division shall only renew the certificate of any certificate holder who does all of the following:

(a) Pays the required annual fee for renewal under ORS 822.700.

(b) Completes the application described in ORS 822.115.

(c) Obtains local government approval under ORS 822.140. The division may waive the requirement that an applicant for renewal obtain local government approval under ORS 822.140 of the suitability of the applicant to establish, maintain or operate a wrecking yard or business.

(d) Maintain a current bond that meets the requirements under ORS 822.120.

(4) The division may provide the holder of a wrecker certificate with identification cards in the names of the owners of the business or in the names of authorized employees of the business.

(5) The division may adopt suitable rules for the issuance and renewal of wrecker certificates and identification cards. [1983 c.338 §805; 1985 c.16 §404; 1987 c.261 §9a]

822.130 Division inspection of books, records, inventory and premises. (1) The Motor Vehicles Division may inspect the books, records and inventory of and the

premises used by any business issued a certificate under ORS 822.110 for the purpose of determining compliance with any of the following:

(a) Those laws regulating the issuance of certificates to wreckers.

(b) Requirements for records under ORS 822.135.

(c) ORS 802.200, 803.140, 819.010, 819.016, 819.030, 819.040 or 822.120.

(d) Rules adopted by the division concerning business issued certificates under ORS 822.110.

(2) Provisions for enforcing this section are established under ORS 822.135 and 822.145. [1985 c.16 §406; 1991 c.873 §49]

822.135 Improperly conducting wrecking business; penalty. (1) A person commits the offense of improperly conducting a wrecking business if the person holds a wrecker certificate issued under ORS 822.110 and the person does any of the following:

(a) Fails to permanently exhibit the wrecker certificate at the place of business of the person at all times while the certificate is in force.

(b) Expands the dimensions of or moves any of the person's places of business or opens any additional places of business without obtaining a supplemental wrecker certificate by the procedure under ORS 822.125.

(c) Fails to maintain records at the person's established place of business that record and describe the following:

(A) Every motor vehicle purchased, transferred, wrecked, dismantled, disassembled or substantially altered by the person;

(B) The name and address of the person to and from whom the vehicle was transferred;

(C) The vehicle identification number and other identification marks or numbers on the vehicle; and

(D) A statement indicating any such numbers or marks that have been obliterated, defaced or changed.

(d) Fails to have in the person's possession a duly assigned certificate of title or other primary ownership document or notification of award or purchase for a motor vehicle from the time the vehicle is delivered to the person until the person disposes of the vehicle. If the certificate of title has been surrendered as provided in ORS 819.012, the person must have a notification of award or purchase in order to comply with the provisions of this paragraph.

(e) Refuses, at any time, to allow a police officer to inspect the books, records, inven-

tory or premises of the person's wrecking business.

(f) Fails to maintain, for the purposes of the person's wrecking business, a building or an enclosure or other barrier at least six feet in height that is constructed, established or formed in compliance with rules adopted by the department.

(g) Fails to keep the premises on the outside of the establishment clear and clean at all times.

(h) Conducts any wrecking, dismantling or altering of vehicles outside the building, enclosure or barrier on the premises of the business.

(i) Except as otherwise provided in this paragraph, stores any vehicles or vehicle parts or conducts the business outside of the building, enclosure or barrier on the premises of the business. A person is not in violation of this paragraph if the person complies with the following limits:

(A) In an area zoned by the city or county for industrial use, a wrecking business may display and offer for sale motor vehicle parts or nonoperating vehicles outside the enclosure or barrier in a single defined area limited to not more than five percent of the total area of the business and if no more than eight vehicles are displayed.

(B) In an area zoned by the city or county for any use other than industrial use, a wrecking business may offer not more than four vehicles for sale in an area outside of the building, enclosure or barrier.

(j) Fails to immediately file with the division, upon transfer of a wrecked or dismantled vehicle, the form furnished by the division to report the date of transfer, a description of the vehicle, the name and address of the purchaser and other information respecting the vehicle required by the division.

(k) Except as otherwise provided in this paragraph, fails to keep the business hidden or adequately screened by the terrain or other natural objects or by plantings, fences or other appropriate means so as not to be visible from the main traveled way of the highway in accordance with the rules of the State Highway Engineer. This paragraph does not apply to a business that is:

(A) Farther than 1,100 feet from the nearest edge of the right of way of any state highway;

(B) Located in an area zoned for industrial use under authority of the laws of this state; or

(C) A business established before June 30, 1967.

(L) Expands or moves any place of business approved under a wrecker certificate or opens any additional locations for the wrecking business without obtaining a supplemental certificate under ORS 822.125 or obtaining an additional wrecker certificate.

(m) Fails to allow the division to conduct inspections as provided under ORS 822.130.

(2) The offense described in this section, improperly conducting a wrecking business, is a Class A misdemeanor. [1983 c.338 §806; 1985 c.16 §407; 1985 c.400 §6; 1991 c.820 §18; 1991 c.873 §50]

822.140 Local government approval requirements. (1) To meet the requirement for local government approval of a wrecker certificate under ORS 822.110 or for a supplemental certificate under ORS 822.125, an applicant must comply with any regulations established by a city or county under this section and must obtain the approval of the governing body of the:

(a) City, if the business is or will be carried on within an incorporated city of less than 100,000 population.

(b) County, if the business is or will be carried on outside of any incorporated city.

(2) A city or county governing body shall grant approval of a wrecker certificate or renewal when requested under this section if the governing body:

(a) Approves the applicant as being suitable to establish, maintain or operate a wrecker yard or business;

(b) Determines that the location or proposed location meets the requirements for location under ORS 822.110;

(c) Determines that the location does not violate any prohibition under ORS 822.135; and

(d) Approves the location and determines that the location complies with any regulations adopted by a city or county under this section.

(3) The governing body of a city or county may regulate the expansion of premises or the establishment of premises at a new location under a wrecker certificate. An applicant must comply with the regulations before the division may issue a supplemental wrecker certificate. In adopting regulations under this subsection, a governing body:

(a) Shall consider the extent of development of surrounding property as a residential area;

(b) Shall consider the proximity of churches, schools, hospitals, public buildings or other places of public gathering;

(c) Shall consider the sufficiency in number of other wrecking businesses in the vicinity;

(d) Shall consider the health, safety and general welfare of the public;

(e) May establish zones in which wrecking businesses are permissible and other zones where they are prohibited; and

(f) May prescribe limitations on the dimensions of the premises on which wrecking businesses are conducted.

(4) Regulations of a city governing body that are adopted under this section apply to wrecking businesses located outside of and within six miles of the boundaries of the city unless the county governing body in which the area is located has adopted regulations under this section that are applicable in the area. [1983 c.338 §807; 1985 c.16 §408]

822.145 Revocation, cancellation or suspension of certificate or identification card. (1) The division may revoke any wrecker certificate issued under ORS 822.110 or identification card issued under ORS 822.125 if the division determines at any time for due cause that any of the following have occurred:

(a) The person holding the certificate has failed to comply with any requirements for registration of vehicles under the vehicle code.

(b) The person holding the certificate has violated ORS 803.140, 819.010, 819.012, 819.016, 819.040 or 822.135.

(c) The person holding the certificate has caused or suffered or is permitting the unlawful use of the wrecker certificate.

(d) The premises where the wrecking business is conducted no longer has access to any adjacent highway from the place where the wrecking business is conducted.

(e) Any highway adjacent to the premises where the wrecking business is conducted does not have public parking available.

(f) The person holding the certificate has violated any regulation adopted under ORS 822.135.

(g) The person holding the certificate has failed to allow the division to conduct inspections as provided under ORS 822.130.

(h) The person holding the certificate has failed to supply the certification concerning highway access and public parking or has violated the requirements of such certification.

(i) The person holding an identification card has unlawfully used or permitted unlawful use of the card.

(2) The division shall cancel or suspend any wrecker certificate immediately upon receipt of legal notice that the bond described under ORS 822.120 is canceled.

(3) Upon revocation, cancellation or suspension of a wrecker certificate or identification card under this section, the division shall recall and demand the return of the certificate or identification card. [1983 c.338 §808; 1985 c.16 §409; 1985 c.176 §4; 1987 c.261 §9b; 1991 c.820 §19; 1991 c.873 §51]

822.150 Failure to return revoked, canceled or suspended certificate or identification card; penalty. (1) A person commits the offense of failure to return a revoked, canceled or suspended wrecker certificate or identification card if the division recalls and demands the person to return a certificate or card under ORS 822.145 and the person does not return the certificate or card to the division.

(2) The offense described in this section, failure to return a revoked, canceled or suspended wrecker certificate or identification card, is a Class A misdemeanor. [1983 c.338 §809; 1987 c.261 §9c]

TOWING BUSINESSES

822.200 Operating illegal towing business; exceptions; penalties. (1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310.

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

(c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.

(d) An employee of a person issued a towing business certificate under ORS 822.205 while that employee is performing official duties as an employee.

(3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor. [1983 c.338 §811; 1985 c.16 §410]

822.205 Certificate; qualifications; fee. The division shall issue a towing business certificate to any person if the person meets all of the following requirements to the satisfaction of the division:

(1) The person must complete an application on a form and in the manner established by the division by rule.

(2) The person must maintain insurance in amounts and providing coverage of the type required for motor carriers under ORS chapter 767. The division may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the division determines appropriate.

(3) The person must maintain insurance providing \$15,000 coverage for cargo transported by the person. An applicant is not required to comply with this subsection if the applicant tows or recovers only vehicles that are owned by the applicant. The division may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the division determines appropriate.

(4) The person must maintain vehicles used by the person for the purposes of towing or recovering services so that they meet minimum safety standards established by the division by rule. The division may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the division determines appropriate.

(5) The person must pay the fee required under ORS 822.700 for issuance of a towing business license. [1983 c.338 §813; 1985 c.16 §412; 1985 c.400 §7]

822.210 Privileges granted by certificate; duration; renewal; regulation of holder. (1) The holder of a current, valid towing business certificate issued under ORS 822.205 may exercise the following privileges under the certificate:

(a) The person and any employee of the person who is performing official duties are not subject to the prohibitions and penalties under ORS 822.200.

(b) The person is entitled to receive special towing business registration plates. The following apply to plates described in this paragraph:

(A) The holder of the certificate or a person in the performance of the person's official duties as an employee of the certificate holder may use the plates:

(i) For towing and recovering vehicles; and

(ii) For towing unregistered vehicles over the highways of this state without first obtaining registration for the vehicles or trip permits required under ORS 803.600.

(B) The plates shall be of the design provided under ORS 805.200 and are subject to payment of fees for issuance as provided under ORS 805.250.

(2) A towing business certificate expires one year from the date of issuance unless renewed. A certificate holder may renew the certificate by payment of the fee for renewal of a towing business certificate under ORS 822.700. A person whose certificate expires must qualify for a certificate in the same manner as a person who has not previously held a certificate.

(3) The holder of a towing business certificate is subject to regulation by political subdivisions as provided in ORS 801.040 and 822.230, and to regulation under ORS chapter 767 as provided in ORS 801.035. [1983 c.338 §812; 1985 c.16 §411; 1987 c.765 §4]

822.215 Grounds for denial, suspension, revocation or refusal of certificate. The division may deny or refuse to issue any towing business certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

(1) Used fraud or deception in securing the certificate.

(2) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This subsection does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

(3) Uses vehicles for the purposes of towing or recovering services that do not meet the minimum safety standards established by the division.

(4) Fails to display special towing business registration plates and stickers or identification devices for proportionally registered tow vehicles issued under ORS 805.200 on each vehicle used to tow or recover vehicles.

(5) Fails to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205.

(6) Fails to obtain any permits or authority required under any provision of ORS

chapter 767 or rules adopted thereunder. [1983 c.338 §814; 1991 c.284 §30]

822.217 Proportional registration for tow vehicles. (1) Any person who qualifies under ORS 822.205 for a towing business certificate may choose to register qualified vehicles under the proportional registration provisions of ORS 768.007 or 768.009. Except as otherwise provided in this section, tow vehicles registered under ORS 768.007 or 768.009 are subject to the same requirements, conditions and privileges as other vehicles registered under those sections. Tow vehicle proportional registration is subject to the following:

(a) In addition to any application for registration required by ORS 768.007 or 768.009, the applicant must certify in a manner determined by the division by rule that the applicant meets the qualifications specified in ORS 822.205.

(b) The applicant must hold a towing business certificate issued under ORS 822.205.

(c) In addition to any application for renewal of registration required by ORS 768.007 or 768.009, in order to renew proportional registration for a tow vehicle, the applicant shall certify to the Public Utility Commission that the applicant meets the qualifications specified in ORS 822.205.

(d) The division shall issue appropriate identification devices for proportionally registered tow vehicles. The design for such devices shall be as determined by the division by rule and the fees for such devices are as provided in ORS 803.577.

(e) An identification device for proportionally registered tow vehicles is subject to cancellation as provided in ORS 822.218.

(2) A vehicle that has been issued tow vehicle proportional registration may be used only for the purposes described in ORS 822.210. Violation of this subsection is punishable as provided in ORS 822.200 for operating an illegal towing business. [1991 c.284 §28]

822.218 Cancellation of identification device for proportionally registered tow vehicle. (1) The division shall have the authority to investigate and verify information provided in conjunction with application for proportional registration of a tow vehicle under ORS 822.217. The division may cancel an identification device for a proportionally registered tow vehicle if the division determines that the owner or lessee of the vehicle, or an employee of either, has:

(a) Operated the vehicle in violation of tow vehicle registration limits;

(b) Falsely certified an application required by ORS 822.217 for registration or renewal of registration of a proportionally registered tow vehicle; or

(c) Falsely completed an application under ORS 822.205 for a towing business certificate.

(2) If a tow vehicle proportional registration identification device is canceled under this section, the vehicle is not eligible for registration under ORS 822.205 for a period of one year after the cancellation. [1991 c.284 §29]

822.220 Authorization to obstruct traffic; failure to take precautions; penalty. (1) The operator of a wrecker or tow vehicle may stop the wrecker or tow vehicle where it obstructs traffic when the operator:

(a) Is engaged in the salvaging of another vehicle; and

(b) Takes the precautionary measures required by this section.

(2) A person commits the offense of failure to take precautions when obstructing traffic with a tow vehicle or wrecker if the person is operating a wrecker or tow vehicle engaged in the salvaging of another vehicle and the operator does not do all of the following:

(a) Determine that the salvaging operation requires stopping the wrecker or tow vehicle in the roadway.

(b) Place warning signs or signals as prescribed under ORS 815.070 at a suitable distance in each direction upon the roadway.

(c) Activate tow vehicle warning lights described in ORS 816.280.

(3) The offense described in this section, failure to take precautions when obstructing traffic with a tow vehicle or wrecker, is a Class D traffic infraction. [1983 c.338 §815; 1985 c.71 §9]

822.225 Failure to remove injurious substance; penalty. (1) A person commits the offense of tow vehicle operator failure to remove injurious substance if the person is operating a tow vehicle that is removing a wrecked or damaged vehicle from a highway and the person fails to remove any glass or other injurious substance dropped upon the highway from such vehicle.

(2) The offense described in this section, tow vehicle operator failure to remove injurious substance, is a Class C traffic infraction. [1983 c.338 §816; 1985 c.71 §10]

822.230 City or county regulation of towing businesses. (1) Notwithstanding ORS 822.200 to 822.225, and except as provided in subsection (2) of this section, a city or county may, by charter or ordinance, reg-

ulate towing businesses if the city or county charter or ordinance provisions pertain only to towing authorized by ORS 98.812 and the provisions:

(a) Regulate an aspect of a towing business that is not regulated by ORS 822.200 to 822.225; or

(b) Regulate an aspect of the towing business that is regulated by ORS 822.200 to 822.225 and the provisions of the charter or ordinance are more stringent than those of the statutes.

(2) This section does not authorize imposition of any license fee or tax on a towing business by a city or county.

(3) The governing body of a city or county may adopt ordinances that include, but are not limited to, the following requirements:

(a) That towing businesses accept methods of payment other than and in addition to cash.

(b) That towing businesses post fees in a conspicuous place at the location of the towed vehicles.

(c) That any posted signs that warn of the possibility of towing or that give information about recovery of a towed vehicle be prominently displayed and show the fees charged to recover a towed vehicle.

(d) That towing businesses offer transportation at a reasonable cost from within the immediate vicinity of the place from which the vehicle was towed to the towed vehicle.

(e) That towing businesses establish locations for towed vehicles in such a way that no vehicle will be towed a greater distance than is necessary and reasonable.

(f) That towed vehicles be stored in a public location that has at least one attendant on duty at all times. [1987 c.765 §2]

VEHICLE TRANSPORTERS

822.300 Acting as vehicle transporter without certificate; exemptions; penalty.

(1) A person commits the offense of acting as a vehicle transporter without a certificate if the person is not the holder of a vehicle transporter certificate issued under ORS 822.310 and the person drives or tows any vehicle over the highways of this state that is:

(a) Required to be registered under the vehicle code;

(b) Driven or towed on its own wheels;

(c) Driven or towed from outside this state or from a manufacturer or vehicle dealer within this state; and

(d) Driven or towed to a prospective purchaser, manufacturer or dealer or the agent thereof either in this state or in any other state, territory or foreign country.

(2) The offense described in this section does not apply to persons or vehicles exempted from this section under ORS 822.305.

(3) The offense described in this section, acting as a vehicle transporter without a certificate, is a Class C traffic infraction. [1983 c.338 §817; 1985 c.16 §413]

822.305 Exemptions from vehicle transporter certification requirement. In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.300 does not apply to the following:

(1) Vehicles lawfully operated with plates furnished to vehicle dealers under ORS 822.040.

(2) Vehicles lawfully operated with registration plates issued by this state.

(3) Vehicles being towed by other vehicles lawfully operated with plates issued for towing businesses under ORS 822.210. [1983 c.338 §818; 1985 c.16 §414]

822.310 Privileges granted by certificate; duration; renewal; identification cards; fee; rules; regulation of holder. (1) The holder of a current, valid vehicle transporter certificate issued under this section may exercise the following privileges under this certificate:

(a) The person is not subject to the prohibitions and penalties under ORS 822.300 while transporting vehicles as provided under this section.

(b) The person is entitled to apply for and receive a sufficient number of special vehicle transporter plates or devices and may transport vehicles as provided under this section while displaying the plate or device. Only one plate or device shall be displayed on a vehicle. The plates or devices shall be of a design described under ORS 805.200 and shall require a fee for issuance as provided in ORS 805.250. A plate or device issued under this paragraph may be used on any vehicle transported by the person.

(c) The person may drive or tow on its own wheels over the highways of this state any unregistered vehicle from outside this state or from manufacturers or dealers within this state to a prospective purchaser, manufacturer or dealer in this or any other state, territory or foreign country. This paragraph only permits the person to transport mobile homes from the place of manufacture to the place of business of a mobile home dealer holding a certificate under ORS 822.020. Any other movement of a mobile

home by the person must be under a trip permit issued under ORS 803.600.

(2) The division shall provide for the issuance and renewal of vehicle transporter certificates under this section to persons regularly engaged in businesses that require the certificates.

(3) The division may provide the holder of a vehicle transporter certificate with identification cards in a manner determined by the division by rule.

(4) Vehicle transporter certificates issued under this section are subject to all of the following:

(a) A certificate described in this section is valid for a one-year period and shall be renewed as provided by the division.

(b) The division shall not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(5) The division may adopt suitable rules for the issuance and renewal of certificates described by this section.

(6) A person issued a certificate under this section is subject to regulation under ORS chapter 767 as provided in ORS 801.035. [1983 c.338 §819; 1985 c.16 §415; 1985 c.598 §10; 1987 c.261 §9d]

822.315 Improper use of vehicle transporter plate; penalty. (1) A person commits the offense of improperly using a vehicle transporter plate if the person is the holder of a vehicle transporter certificate and the person does any of the following:

(a) Exercises privileges granted under ORS 822.310 for vehicles with special vehicle transporter plates issued under ORS 822.310 without conspicuously displaying the plates on the rear of each vehicle.

(b) Uses a special vehicle transporter plate to transport a mobile home to a situs not permitted under the privileges granted under ORS 822.310.

(c) Allows any person other than the transporter or transporter's employee to use the special vehicle transporter plates issued to the transporter under ORS 822.310.

(2) The offense described in this section, improper use of vehicle transporter plates, is a Class C traffic infraction. [1983 c.338 §820]

822.320 Revocation of certificate and cards. (1) The division may revoke a vehicle transporter certificate issued under ORS 822.310 if the division determines that the holder of the certificate has transported a mobile home to a situs not permitted under the privileges granted under ORS 822.310 without obtaining a trip permit issued under ORS 803.600.

(2) The division may demand and require the return of any vehicle transporter certificate revoked under this section, of any special vehicle transporter plates issued to the holder of the revoked certificate and of any identification cards. [1983 c.338 §821; 1987 c.261 §9e]

822.325 Failure to return revoked certificate and cards; penalty. (1) A person commits the offense of failure to return a revoked vehicle transporter certificate if the division demands and requires the return of any certificate, cards or plates under ORS 822.320 and the person has those items demanded and does not return them to the division.

(2) The offense described in this section, failure to return a revoked vehicle transporter certificate, is a Class A misdemeanor. [1983 c.338 §822; 1985 c.393 §57; 1987 c.261 §9f]

822.400 [1983 c.338 §823; 1985 c.16 §416; repealed by 1987 c.261 §13]

822.405 [1983 c.338 §824; 1985 c.16 §417; repealed by 1987 c.261 §13]

822.410 [1985 c.16 §420; 1987 c.217 §11; repealed by 1987 c.261 §13]

822.415 [1985 c.459 §14; repealed by 1987 c.261 §13]

822.420 [1985 c.459 §15; repealed by 1987 c.261 §13]

DRIVER TRAINING

(Commercial Driver Training Schools)

822.500 Operating commercial driver training school without certificate; penalty. (1) A person commits the offense of operating a commercial driver training school without a certificate if the person is not the holder of a valid, current driver training school certificate issued under ORS 822.515 and the person operates a business or nonprofit enterprise that engages, for a consideration, in educating and training persons, either practically or theoretically, or both, in the driving of motor vehicles.

(2) The offense described in this section does not apply to a business or nonprofit enterprise engaged in educating and training persons for a profession or an accredited secondary school, college or university.

(3) The offense described in this section, operating a commercial driver training school without a certificate, is a Class A misdemeanor. [1983 c.338 §826; 1985 c.393 §58]

822.505 Commercial driver training school bond; requirements; actions against school or surety. (1) A bond required under ORS 822.515 for issuance or renewal of a commercial driver training school certificate must comply with all of the following:

(a) The bond shall have a corporate surety licensed to do business within this state.

(b) The bond shall be executed to the State of Oregon.

(c) The bond shall be in the sum of \$2,500.

(d) The bond shall be approved as to form by the Attorney General.

(e) The bond must be conditioned that the person issued the certificate shall conduct business as a commercial driver training school without fraudulent representation and without violation of any rules adopted by the division under ORS 822.515.

(f) The bond must be filed and held in the office of the division.

(2) Any person shall have a right of action against a commercial driver training school and against the surety on the bond of the school in the person's own name if the person suffers any loss or damage by reason of the school's fraudulent representations or violation of rules adopted by the division under ORS 822.515.

(3) If the certificate of a school is not renewed or is revoked or canceled, the sureties on the bond shall be relieved from liability accruing subsequent to cancellation or revocation by the division. [1983 c.338 §827]

822.510 Proof of insurance; requirements. An applicant or holder of a commercial driver training school certificate may maintain proof of insurance required under ORS 822.515 for issuance or renewal of the certificate complying with any of the following:

(1) The school may file a certificate of insurance with the division that complies with all of the following:

(a) The insurance must be issued to the school.

(b) The insurance must be issued by an insurance company authorized to do business in this state.

(c) The insurance must show that the insured has procured and has in effect a motor vehicle liability policy that provides at least the following coverage:

(A) \$50,000 because of bodily injury to or death of one person in any one accident;

(B) Subject to the limit for one person, \$100,000 because of bodily injury to or death of two or more persons in any one accident; and

(C) \$25,000 because of injury to or destruction of the property of others in any one accident.

(d) The policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is granted.

(e) The policy shall insure any and all persons using any motor vehicle owned or operated by the school with the consent of the school against loss from the liabilities imposed by law for damages arising out of the operation, use or maintenance of the motor vehicle.

(2) The school may provide the division with proof that the school has a bond that is conditioned on the payment of claims in the amounts required for insurance under this section.

(3) The school may provide the division with a certificate of the State Treasurer stating that the school has deposited with the State Treasurer the sum of \$50,000 in cash or in securities that may be legally purchased by fiduciaries or for trust funds and that have a market value of \$50,000.

(4) The school may obtain a valid certificate of self-insurance from the division. [1983 c.338 §828]

822.515 Certificates; issuance; suspension or revocation; duration; fee; bond; proof of insurance. (1) A person who holds a valid, current commercial driver training school certificate issued under this section is not subject to the prohibitions or penalties under ORS 822.500.

(2) The division shall adopt rules to provide for the issuance of commercial driver training school certificates under this section. Rules adopted by the division under this section shall provide requirements for all of the following:

(a) Requirements for a certificate under this section including requirements concerning manner and form of application, location, place of business, facilities, records, equipment, courses and standards of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character of school operators and instructors, vehicle equipment and condition and inspection during reasonable business hours.

(b) Any other matters the division may prescribe for the protection of the public.

(3) The division:

(a) May refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the division finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section or any provision of this section, ORS 822.500 to 822.510, 822.525 or 822.530.

(b) Shall cancel immediately any certificate if a bond described under ORS 822.505 is canceled by legal notice.

(4) Commercial driver training school certificates issued under this section are subject to the following:

(a) A certificate shall expire on the last day of each calendar year.

(b) The division shall not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(c) The division shall not renew a certificate until the fee for renewal of the certificate under ORS 822.700 has been paid.

(d) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked.

(e) The division shall not issue or renew a certificate unless the applicant or certificate holder maintains a bond that meets the requirements under ORS 822.505.

(f) The division shall not issue or renew a certificate unless the applicant or certificate holder maintains proof of insurance that meets the requirements under ORS 822.510. [1983 c.338 §829; 1985 c.16 §418; 1985 c.598 §11]

822.520 Failure to return revoked, suspended or canceled commercial driver training school certificate; penalty. (1) A person commits the offense of failure to return a revoked, suspended or canceled commercial driver training school certificate if the division revokes, suspends or cancels a commercial driver training school certificate issued to the person under ORS 822.515 and the person does not immediately return the certificate to the division.

(2) The offense described in this section, failure to return a revoked, suspended or canceled commercial driver training school certificate, is a Class A misdemeanor. [1983 c.338 §830; 1985 c.393 §59]

(Driver Training Instructor)

822.525 Acting as driver training instructor without certificate; exemptions; penalty. (1) A person commits the offense of acting as a driver training instructor without a certificate if the person is not the holder of a valid, current driver training instructor certificate issued under ORS 822.530 and the person, for compensation, teaches, conducts classes or gives demonstrations to or supervises practice of persons in the driving of motor vehicles whether acting on the person's own behalf or acting as an operator of or on behalf of any business or nonprofit enterprise or school engaged in educating and training persons, either practically or theoretically, or both, in the driving of motor vehicles.

(2) The offense described in this section does not apply to a person acting as an operator of or on behalf of:

(a) A business or nonprofit enterprise engaged in educating and training persons for a profession; or

(b) An accredited secondary school, college or university.

(3) The offense described in this section, acting as a driver training instructor without a certificate, is a Class A misdemeanor. [1983 c.338 §831; 1985 c.393 §60]

822.530 Certificate; issuance; suspension or revocation; duration; fee. (1) A person who holds a valid, current driver training instructor certificate issued under this section is not subject to the prohibitions or penalties under ORS 822.525.

(2) The division shall adopt rules to provide for the issuance of driver training instructor certificates under this section. Rules adopted by the division under this section shall provide for all of the following:

(a) Requirements for driver training instructor certificate including requirements concerning manner and form of application, moral character, physical condition, knowledge of the courses of instruction, traffic laws, safety principles and practices, driving record, driving ability and previous personal and employment record.

(b) Any other matters the division may prescribe for the protection of the public.

(3) The division may refuse to issue or renew or may suspend or revoke any certificate issued under this section in any case where the division finds that the applicant or certificate holder has violated or failed to comply with any rules adopted under this section.

(4) Driver training certificates issued under this section are subject to the following:

(a) A certificate shall expire on the last day of each calendar year.

(b) The division shall not issue a certificate to a person until the fee for issuance of the certificate under ORS 822.700 is paid.

(c) The division shall not renew a certificate until the fee for renewal of the certificate under ORS 822.700 has been paid.

(d) A fee for a certificate may not be refunded in the event any certificate is refused, suspended or revoked. [1983 c.338 §832; 1985 c.598 §12]

822.535 Failure to return revoked or suspended certificate; penalty. (1) A person commits the offense of failure to return a revoked or suspended driver training instructor certificate if the division revokes or suspends a driver training instructor certificate issued to the person under ORS 822.530 and the person does not immediately return the certificate to the division.

(2) The offense described in this section, failure to return a revoked or suspended driver training instructor certificate, is a Class A misdemeanor. [1983 c. 338 §833; 1985 c.393 §61]

GENERAL PROHIBITIONS

822.600 Failure of garage to report accident or bullet contact; penalty. (1) A person commits the offense of failure of a garage to report an accident or bullet contact if the person is in charge of any garage or repair shop to which is brought any motor vehicle that shows evidence of having been involved in a serious accident or struck by any bullet and the person does not report to the nearest police station or sheriff's office within 24 hours after such motor vehicle is received giving the registration number and the name and address of the owner or operator of such vehicle.

(2) An additional report need not be made under this section when the owner of the vehicle is also the owner of the garage or repair shop and the person has made a report under ORS 811.725 or 811.730 that includes the information required by this section.

(3) The offense described in this section, failure of garage to report accident or bullet contact, is a Class A traffic infraction. [1983 c.338 §834]

822.605 False swearing relating to regulation of vehicle related businesses; penalty. (1) A person commits the offense of false swearing relating to regulation of vehicle related businesses if the person knowingly makes any false affidavit or knowingly swears or affirms falsely to any matter or thing relating to the regulation of vehicle dealers, wreckers, towing businesses, vehicle transporters, snowmobile dealers, Class I all-terrain vehicle dealers, commercial driver training schools or driver training instructors under the vehicle code.

(2) The offense described in this section, false swearing relating to regulation of vehicle related businesses, is a Class C felony. [1983 c.338 §836; 1987 c.217 §12]

FEES

822.700 Certification fees. (1) Fee for issuance of a wrecker certificate under ORS 822.110, \$54.

(2) Fee for renewal of wrecker certificate under ORS 822.125, \$54.

(3) Fee for original issuance of vehicle dealer certificate under ORS 822.020:

(a) \$95, for a certificate covering a single place of business; and

(b) \$30, for each additional place of business to be covered by the certificate and operated under the same name.

(4) Fee for renewal of vehicle dealer certificate under ORS 822.040:

(a) \$95, for renewal of vehicle dealer certificate covering single place of business; and

(b) \$30, for each additional place of business to be covered by the certificate and operated under the same name.

(5) Fee for issuance of towing business certificate under ORS 822.205, \$17 for each vehicle used for towing or recovery purposes.

(6) Fee for renewal of towing business certificate under ORS 822.210, \$17 for each vehicle used for towing or recovery purposes.

(7) Fee for issuance of vehicle transporter certificate under ORS 822.310, \$25.

(8) Fee for renewal of vehicle transporter certificate under ORS 822.310, \$25.

(9) Fee for issuance of driver training instructor certificate under ORS 822.530, \$20.

(10) Fee for renewal of driver training certificate under ORS 822.530, \$20.

(11) Fee for issuance of commercial driver training school certificate under ORS 822.515, \$100.

(12) Fee for renewal of commercial driver training school certificate under ORS 822.515, \$100.

(13) Fee for issuance of appraiser certificate under ORS 819.230, a reasonable fee to cover the cost of issuance established by the division by rule that shall not exceed \$10.

(14) Fee for renewal of an appraiser certificate under ORS 819.230, a reasonable fee to cover the cost of renewal established by the division by rule that shall not exceed \$10. [1983 c.338 §835; 1985 c.16 §421; 1985 c.459 §16; 1985 c.736 §6; 1987 c.261 §10]

822.705 Annual fee for persons holding current vehicle dealer certificate. Each person holding a current vehicle dealer certificate shall pay an annual fee of \$14 to the division. Moneys from the fee are continuously appropriated to the division for the purpose of carrying out the provisions of ORS 822.007, 822.009, 822.075 and 822.080. The fee imposed under this section is in addition to fees under ORS 822.700 for issuance and renewal of a vehicle dealer certificate. [1991 c.541 §7]

OREGON VEHICLE CODE
