

Enrolled House Bill 2429

Sponsored by Representative BROWN (at the request of Northwest Automotive Trades Association)

CHAPTER

AN ACT

Relating to wreckers; creating new provisions; and amending ORS 184.642, 459.005, 459.705, 459.715, 801.020, 802.010, 803.430, 803.565, 810.480, 819.010, 819.040, 819.215, 819.220, 819.440, 822.027, 822.070, 822.094, 822.100, 822.110, 822.115, 822.120, 822.125, 822.130, 822.135, 822.140, 822.145, 822.150, 822.605 and 822.700 and section 2, chapter ___, Oregon Laws 2005 (Enrolled House Bill 2507).

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2005 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 2. “Certificate of sale” means a document that contains the name and address of the purchaser and seller of a motor vehicle or component part, the date of sale, the consideration paid and a description of the vehicle or part and other essential elements of a sale of a motor vehicle or major component part.

SECTION 3. “Dismantler” means a person who is engaged in the business of:

(1) Buying, selling, dealing in or processing, except for processing into scrap metal, motor vehicles for the purpose of destroying, salvaging, dismantling, disassembling, reducing to major component parts, crushing, compacting, recycling or substantially altering in form; or

(2) Buying, selling, dealing in or processing motor vehicle major component parts that are stocked in the inventory of the business, if the buying, selling, dealing in or processing of major component parts is not part of a business selling new vehicles or repairing vehicles.

SECTION 4. Sections 5 and 6 of this 2005 Act are added to and made a part of ORS chapter 822.

SECTION 5. (1) As used in this section, “major component part” includes significant parts of a motor vehicle such as engines, short blocks, frames, transmissions, transfer cases, cabs, doors, differentials, front or rear clips, quarter panels, truck beds or boxes, hoods, bumpers, fenders and airbags. The Department of Transportation may by rule designate other motor vehicle parts not specified in this subsection as major component parts. “Major component part” does not include cores or parts of cores that require remanufacturing or that are limited in value to that of scrap metal.

(2) In addition to any other penalty provided by law, the department may impose on a dismantler, in the manner provided by ORS 183.745, a civil penalty not to exceed \$1,000 per violation if the dismantler:

(a) Acquires a motor vehicle or major component part without first obtaining a certificate of sale and, if applicable, a certificate of title.

(b) Possesses, sells or otherwise disposes of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen.

(c) Sells, buys, receives, conceals, possesses or disposes of a motor vehicle or any part of a motor vehicle having a missing, defaced, intentionally altered or covered vehicle identification number, unless directed to do so by a law enforcement official.

(d) Commits forgery in the second degree, as defined in ORS 165.007, or misstates a material fact relating to a certificate of title, registration or other document related to a motor vehicle that has been reassembled from parts of other motor vehicles.

(e) Fraudulently obtains, creates or modifies a dismantler certificate.

(f) Fails to maintain records at the certified place of business for three years from the date of acquisition of a motor vehicle that describe and identify the vehicle, including:

(A) The certificate of title number;

(B) The state where the vehicle was last registered, if applicable;

(C) The number of the last registration plate issued and the state of issuance, if applicable;

(D) The year, make and model of the vehicle;

(E) The vehicle identification number;

(F) The date acquired;

(G) The vehicle, stock or yard number assigned to the vehicle by the dismantler; and

(H) Any other information required by the department.

(g) Fails to maintain records at the certified place of business for three years from the date of acquisition of a major component part that describe and identify the part, including:

(A) The physical characteristics of the part;

(B) The stock or yard number assigned to the part by the dismantler;

(C) The vehicle identification number of the motor vehicle from which the part came; and

(D) Any other information required by the department.

(h) Commits a dishonest act or omission during the sale of a motor vehicle or major component part that, as determined by the department, causes a loss to the purchaser.

(i) Is convicted of a crime involving false statements or dishonesty that directly relates to the business of the dismantler or suffers any civil judgment imposed for conduct involving fraud, misrepresentation or conversion.

(j) Fails to comply with any provision of section 6 of this 2005 Act.

SECTION 6. (1) As used in this section:

(a) "Destroy" means to dismantle, disassemble, damage or substantially alter a motor vehicle:

(A) With the intent of rendering the vehicle permanently inoperable;

(B) To the extent that the cost of repairing the vehicle exceeds the actual cash value of the vehicle prior to the damage; or

(C) To the extent that the sum of the cost of repairing the vehicle and the salvage value of the vehicle in its damaged condition exceeds the actual cash value of the vehicle in its repaired condition.

(b) "Wrecked vehicle" means a motor vehicle:

(A) That is destroyed, or is acquired with the intent to destroy, and that will never be operated as a motor vehicle; or

(B) That has sustained damage to an extent that the vehicle may not lawfully be operated on the highways of this state.

(2) In the operation of a motor vehicle dismantling business, a dismantler:

(a) Must physically separate or visually label a wrecked vehicle in a manner that readily identifies the ownership status of the wrecked vehicle if the dismantler takes possession of the wrecked vehicle without immediately obtaining an ownership record or salvage title certificate. A dismantler need not separate or visually identify a wrecked vehicle pursuant

to this subsection if the vehicle is subject to an exemption under ORS 803.030 or is obtained from a jurisdiction that does not issue certificates of title.

(b) **May not remove parts from or destroy a motor vehicle prior to obtaining an ownership record or salvage title certificate for the vehicle.**

(c) **Must demolish the registration plates of a wrecked vehicle at the time the ownership record is received.**

(d) **Must notify the Department of Transportation of any changes in the information provided to the department in the application for a dismantler certificate within 30 days of the change.**

(e) **Must furnish a written report to the department, in a form established by the department by rule, after a wrecked vehicle is dismantled or destroyed.**

SECTION 7. ORS 822.100 is amended to read:

822.100. (1) A person commits the offense of conducting a [*wrecking*] **motor vehicle dismantling** business without a certificate if the person **performs any actions of a dismantler and** is not the holder of a valid, current [*wrecker*] **dismantler** 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*] **motor vehicle dismantling** business without a certificate, is a Class A misdemeanor.

(4) In addition to the penalty described in subsection (3) of this section, the Department of Transportation may impose a civil penalty of not more than \$5,000 on a person who conducts a motor vehicle dismantling business without a certificate. A civil penalty under this subsection shall be imposed in the manner provided in ORS 183.745.

SECTION 8. ORS 822.110 is amended to read:

822.110. (1) **Except as provided in subsection (2) of this section,** the Department of Transportation shall issue a [*wrecker*] **dismantler** certificate to any person if the person meets all of the following requirements:

[(1)] (a) The person [*must establish*] **establishes** that the area **in which the business is located and the place of business to be** approved under the [*wrecker*] **dismantler** certificate for use in the [*wrecking*] **motor vehicle dismantling** 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 Director of Transportation.*]

[(c) *The area and the business thereon are located in an area*] **are** zoned for industrial use **or subject to another zoning classification that permits the type of business conducted by the dismantler** [*under authority of the laws of this state*].

[(2)] (b) The person [*must pay*] **pays** the fee required under ORS 822.700 for issuance of a [*wrecker*] **dismantler** certificate.

[3] (c) The person [*must complete*] **completes** the application for a [*wrecker*] **dismantler** certificate described under ORS 822.115.

[4] (d) The person [*must deliver*] **delivers** to the department any approvals by local governments required under ORS 822.140.

[5] (e) The person [*must deliver*] **delivers** to the department a bond or letter of credit that meets the requirements of ORS 822.120.

(2) **The department may refuse to issue a dismantler certificate to a person if:**

(a) **The person has previously had a dismantler certificate or identification card revoked, canceled or suspended under ORS 822.145; or**

(b) **The department determines that the application contains false or misleading information.**

(3) **The department may issue a duplicate dismantler certificate to a person who has lost or destroyed an original dismantler certificate if the person:**

(a) **Has complied with the requirements of this section for issuance of a certificate; and**

(b) **Is within the renewal period of the original dismantler certificate.**

SECTION 9. ORS 822.115 is amended to read:

822.115. An application for a [*wrecker*] **dismantler** certificate issued by the Department of Transportation under ORS 822.110 or for renewal of a certificate under ORS 822.125 shall be in a form prescribed by the department and [*containing*] **shall contain** 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 statement that the right of way of any highway adjacent to the area proposed for approval to conduct the wrecking business is used for access to the premises and public parking.*

[6] (5) Any other relevant information required by the department.

SECTION 10. ORS 822.120 is amended to read:

822.120. (1) A bond or letter of credit required to qualify for a [*wrecker*] **dismantler** 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 an insured institution, as defined in ORS 706.008;

(b) Executed to the State of Oregon;

(c) In the sum of [*\$2,000*] **\$10,000**;

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

(e) Conditioned that the person issued the [*wrecker*] **dismantler** 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*] **dismantler** certificate and the surety on the holder's bond or the [*wrecker's*] **dismantler'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.

SECTION 11. ORS 822.125 is amended to read:

822.125. (1) The holder of a current, valid [*wrecker*] **dismantler** certificate issued under ORS 822.110 is not subject to the prohibitions and penalties under ORS 822.100 as long as the holder's [*wrecking*] **motor vehicle dismantling** business is conducted in the location approved under the certificate.

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

(a) The department 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 department 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*] **motor vehicle dismantling** business.

(c) [*No*] A fee shall be charged for a supplemental [*wrecker*] **dismantler** certificate under [*this subsection*] **ORS 822.700**.

(3) A [*wrecker*] **dismantler** certificate is valid for a [*one-year*] **three-year** period and may be renewed as provided by the department. The department 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 department 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*] **motor vehicle dismantling** business.

(d) [*Maintain*] **Maintains** a current bond that meets the requirements under ORS 822.120.

(4) The department may provide the holder of a [*wrecker*] **dismantler** 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 department may adopt suitable rules for the issuance and renewal of [*wrecker*] **dismantler** certificates and identification cards.

SECTION 12. ORS 822.130 is amended to read:

822.130. (1) The Department of Transportation 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*] **dismantlers**.

(b) Requirements for records under ORS 822.135 **and section 5 of this 2005 Act**.

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

(d) Rules adopted by the department concerning [*business*] **businesses** issued certificates under ORS 822.110.

(2) Provisions for enforcing this section are established under ORS 822.135 and 822.145.

SECTION 13. ORS 822.135 is amended to read:

822.135. (1) A person commits the offense of improperly conducting a [*wrecking*] **motor vehicle dismantling** business if the person holds a [*wrecker*] **dismantler** certificate issued under ORS 822.110 and the person does any of the following:

(a) Fails to permanently exhibit [*the wrecker*] **a dismantler** certificate at [*the*] **a** 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*] **dismantler** 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) Except as otherwise provided, 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 no certificate of title or primary ownership record in the form of a document has been issued for the vehicle, the person shall comply with rules adopted by the Department of Transportation for documents the person is required to keep. If the certificate of title has been surrendered, the person must have a notification of award or purchase in order to comply with the provisions of this paragraph. If the vehicle is delivered to the person under the provisions of ORS 819.215, a copy of the notification to the department under ORS 819.215 is sufficient to comply with the provisions of this paragraph.

(e) Refuses, at any time, to allow a police officer **or an employee of the department** to inspect the books, records, inventory or premises of the person's *[wrecking]* **motor vehicle dismantling** business.

(f) Fails to maintain, for the purposes of the person's *[wrecking]* **motor vehicle dismantling** 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 **or displays** any **motor** vehicles or *[vehicle]* **major component** parts or conducts the **motor vehicle dismantling** business outside of the building, enclosure or barrier *[on the premises]* of the **place of** 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 department, upon transfer of a wrecked or dismantled **motor** vehicle, the form furnished by the department 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 department.

(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 Director of Transportation. 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)] (A) Located in an area zoned for industrial use under authority of the laws of this state;

or

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

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

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

(2) The offense described in this section, improperly conducting a [wrecking] **motor vehicle dismantling** business, is a Class A misdemeanor.

SECTION 13a. If House Bill 2507 becomes law, section 13 of this 2005 Act (amending ORS 822.135) is repealed and ORS 822.135, as amended by section 1, chapter __, Oregon Laws 2005 (Enrolled House Bill 2507), is amended to read:

822.135. (1) A person commits the offense of improperly conducting a [wrecking] **motor vehicle dismantling** business if the person holds a [wrecker] **dismantler** certificate issued under ORS 822.110 and the person does any of the following:

(a) Fails to permanently exhibit [the wrecker] a **dismantler** certificate at [the] a 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] **dismantler** 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) Except as otherwise provided, 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 no certificate of title or primary ownership record in the form of a document has been issued for the vehicle, the person shall comply with rules adopted by the Department of Transportation for documents the person is required to keep. If the certificate of title has been surrendered, the person must have a notification of award or purchase in order to comply with the provisions of this paragraph. If the vehicle is delivered to the person under the provisions of ORS 819.215, a copy of the notification to the department under ORS 819.215 is sufficient to comply with the provisions of this paragraph.

(e) Refuses, at any time, to allow a police officer **or an employee of the department** to inspect the books, records, inventory or premises of the person's [wrecking] **motor vehicle dismantling** business.

(f) Fails to maintain, for the purposes of the person's [wrecking] **motor vehicle dismantling** 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 **or displays** any **motor** vehicles or [vehicle] **major component** parts or conducts the **motor vehicle dismantling** business outside of the building, enclosure or barrier [on the premises] of the **place of** 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 department, upon transfer of a wrecked or dismantled **motor** vehicle, the form furnished by the department 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 department.

(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 Director of Transportation. 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)] (A) Located in an area zoned for industrial use under authority of the laws of this state;
or

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

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

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

(n) Fails to deploy or remove any air bag containing sodium azide from a vehicle before the vehicle is wrecked or dismantled.

(o) Fails to ensure that an air bag containing sodium azide that has been removed from a vehicle is deployed within seven days of removal unless the air bag is properly stored by a motor vehicle dealer, automobile repair facility or [wrecker] **dismantler** certified under ORS 822.110.

(2) The offense described in this section, improperly conducting a [wrecking] **motor vehicle dismantling** business, is a:

(a) Class A misdemeanor if the person violates subsection (1)(a) to (m) of this section.

(b) Class D violation if the person violates subsection (1)(n) or (o) of this section.

(c) Class C misdemeanor, notwithstanding paragraph (b) of this subsection, if the person violates subsection (1)(n) or (o) of this section and the person has two or more previous convictions for violating subsection (1)(n) or (o) of this section.

SECTION 13b. If House Bill 2507 becomes law, section 2, chapter ___, Oregon Laws 2005 (Enrolled House Bill 2507), is amended to read:

Sec. 2. (1) A person may not possess more than two undeployed air bags or air bag canisters containing sodium azide that have been removed from a vehicle. This subsection does not apply to motor vehicle dealers, automobile repair facilities or [wreckers] **dismantlers** certified under ORS 822.110.

(2) A violation of subsection (1) of this section is a Class C misdemeanor.

SECTION 14. ORS 822.140 is amended to read:

822.140. (1) To meet the requirement for local government approval of a [wrecker] **dismantler** 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] **dismantler** 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] **motor vehicle dismantling** 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] **dismantler** certificate. An applicant must comply with the regulations before the Department of Transportation may issue a supplemental [wrecker] **dismantler** 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] **motor vehicle dismantling** businesses in the vicinity;

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

(e) May establish zones in which [wrecking] **motor vehicle dismantling** businesses are permissible and other zones where they are prohibited; and

(f) May prescribe limitations on the dimensions of the premises on which [wrecking] **motor vehicle dismantling** businesses are conducted.

(4) Regulations of a city governing body that are adopted under this section apply to [wrecking] **motor vehicle dismantling** 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.

SECTION 15. ORS 822.145 is amended to read:

822.145. (1) The Department of Transportation may revoke any [wrecker] **dismantler** certificate issued under ORS 822.110 or identification card issued under ORS 822.125 if the department 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] **dismantler** 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)] (d) The person holding the certificate has violated any regulation adopted under ORS 822.135.

[(g)] (e) The person holding the certificate has failed to allow the department 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)] (f) The person holding an identification card has unlawfully used or permitted unlawful use of the card.

(2) The department shall cancel or suspend any [wrecker] **dismantler** certificate immediately:

(a) Upon receipt of legal notice that the bond described under ORS 822.120 is canceled; or

(b) **For failure to pay any penalty imposed under section 5 of this 2005 Act.**

(3) Upon revocation, cancellation or suspension of a [wrecker] **dismantler** certificate or identification card under this section, the department shall recall and demand the return of the certificate or identification card.

(4) If the department has reason to believe that a person has engaged in or is engaging in any activity prohibited under ORS 822.100, the department may issue an order directed at the person to cease the activity.

SECTION 16. ORS 822.700, as amended by section 140, chapter 655, Oregon Laws 2003, is amended to read:

822.700. (1) Fee for issuance of [*a wrecker certificate under ORS 822.110, \$150*] **dismantler certificates:**

(a) **\$450, for an original dismantler certificate covering a single place of business issued under ORS 822.110;**

(b) **\$90, for a supplemental certificate for each additional place of business to be covered by that certificate and operated under the same name; and**

(c) **\$30, for each duplicate dismantler certificate issued under ORS 822.110.**

(2) Fee for renewal of [*wrecker*] **dismantler** certificate under ORS 822.125, [*\$150*] **\$450.**

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

(a) \$958, for a certificate covering a single place of business;

(b) \$230, for each additional place of business to be covered by the certificate and operated under the same name; and

(c) \$30, for each corrected vehicle dealer certificate issued under ORS 822.040.

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

(a) \$958, for renewal of a vehicle dealer certificate covering a single place of business; and

(b) \$230, 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, \$150.

(8) Fee for renewal of vehicle transporter certificate under ORS 822.310, \$150.

(9) Fee for issuance of driver training instructor certificate under ORS 822.530, \$100.

(10) Fee for renewal of driver training certificate under ORS 822.530, \$100.

(11) Fee for issuance of commercial driver training school certificate under ORS 822.515, \$200.

(12) Fee for renewal of commercial driver training school certificate under ORS 822.515, \$200.

(13) Fee for issuance of appraiser certificate under ORS 819.230, \$50.

(14) Fee for renewal of an appraiser certificate under ORS 819.230, \$50.

SECTION 17. ORS 803.430, as amended by section 113, chapter 655, Oregon Laws 2003, is amended to read:

803.430. (1) Registration weight is established for the following purposes:

(a) The registration weight is the weight used in the declaration of weight under ORS 803.435 to determine the registration fees under ORS 803.420 for vehicles required to establish registration weight under this section.

(b) A vehicle that is required to establish registration weight by this section is in violation of ORS 803.315 if the vehicle is operated on a highway of this state at a weight in excess of the registration weight except when carrying a load:

(A) Under the provisions of ORS 376.305 to 376.390;

(B) Of over 105,500 pounds combined weight under a variance permit issued under ORS 818.200;

(C) Under a registration weight trip permit issued under ORS 803.600; or

(D) Consisting of towed motor vehicles required to be registered under the vehicle code.

(2) Registration weight is established at the time of registration and whenever the vehicle has been altered or reconstructed by furnishing a declaration of weight described under ORS 803.435 that contains a declaration of the maximum combined weight at which the vehicle will be operated on the highways of this state except when carrying loads described under subsection (1)(b) of this section. The maximum registration weight for any vehicle required to establish a registration weight under this section is 105,500 pounds. Vehicles operating at weights above 105,500 pounds will operate under a variance permit issued under ORS 818.200.

(3) Except as provided in subsection (4) of this section, the following vehicles are required to establish a registration weight under this section:

(a) Any motor truck that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section, or any trailing manufactured structure.

(b) Any truck tractor that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle described in subsection (5) of this section, or any trailing manufactured structure.

(c) An armored car, [*wrecker*,] tow vehicle, hearse or ambulance.

(d) Any other motor vehicle that will be operated on the highways at a combined weight of more than 8,000 pounds not including the weight of any camper or trailing vehicle as described in subsection (5) of this section, or any trailing manufactured structure.

(e) A self-propelled mobile crane.

(f) Any motor vehicle registered as a farm vehicle under ORS 805.300.

(4) A vehicle that is being registered under a specific provision of the vehicle code where fees are not based on weight or where registration weight is specifically not required is not required to establish registration weight under this section.

(5) The weight of a camper or the following trailing vehicles may not be included in the registration weight:

(a) Trailers with a loaded weight of 8,000 pounds or less.

(b) Special use trailers, travel trailers and fixed load vehicles.

(c) Towed motor vehicles.

(6) The weight of a trailing manufactured structure may not be included in the registration weight.

SECTION 18. ORS 822.070, as amended by section 134, chapter 655, Oregon Laws 2003, is amended to read:

822.070. (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 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) Vehicles or persons exempt from the vehicle dealer certificate requirements by ORS 822.015 (1) or (10).

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

(d) The holder of a [*wrecker's license*] **dismantler certificate** issued under ORS 822.110.

(3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a Class A misdemeanor.

SECTION 19. The civil penalties created by section 5 of this 2005 Act and the amendments to ORS 822.100, 822.135 and 822.145 by sections 7, 13 and 15 of this 2005 Act apply to acts, offenses or omissions committed on or after the effective date of this 2005 Act.

SECTION 20. The amendments to ORS 822.110, 822.115, 822.120, 822.125 and 822.700 by sections 8 to 11 and 16 of this 2005 Act apply to dismantler certificates applied for or renewed on or after the effective date of this 2005 Act.

SECTION 21. Notwithstanding the provision that dismantler certificates are valid for a three-year period pursuant to ORS 822.125, the Department of Transportation may adopt rules that the department determines are necessary for an orderly transition from a one-year cycle for issuing and renewing dismantler certificates to the three-year cycle created by the amendments to ORS 822.125 by section 11 of this 2005 Act. The rules may include provisions for:

(1) Staggering renewal dates; and

(2) Prorating fees for issuance or renewal of certificates.

SECTION 22. ORS 184.642 is amended to read:

184.642. (1) The Department of Transportation Operating Fund is established in the State Treasury separate and distinct from the General Fund and separate and distinct from the State Highway Fund. Except as otherwise provided in subsection (3)(e) of this section, moneys in the Department of Transportation Operating Fund are continuously appropriated to the Department of Transportation to pay expenses of the department that are incurred in the performance of functions the department is statutorily required or authorized to perform and that may not constitutionally be paid from revenues described in section 3a, Article IX of the Oregon Constitution.

(2) The operating fund shall consist of the following:

(a) Taxes paid on motor vehicle fuels or on the use of fuel in a motor vehicle for which a person is entitled to a refund under a provision described in this paragraph but for which no refund is claimed, in amounts determined under ORS 184.643. This paragraph applies to refund entitlements described in ORS 319.280 (1)(a) and (e), 319.320 (1)(a) and 319.831 (1)(b).

(b) Fees collected under ORS 822.700 for issuance or renewal of:

(A) [Wrecker] **Dismantler** certificates;

(B) Vehicle dealer certificates;

(C) Driver training certificates;

(D) Commercial driver training school certificates; and

(E) Appraiser certificates.

(c) Fees collected under ORS 822.705.

(d) Moneys from civil penalties imposed under ORS 822.009 or 822.075.

(e) Fees collected under ORS 807.410 for identification cards.

(f) Fees collected by the department for issuance of permits to engage in activities described in ORS 374.305 to 374.330 that are not directly connected to the construction, reconstruction, improvement, repair, maintenance, operation and use of a public highway, road, street or roadside rest area.

(g) Interest and other earnings on moneys in the operating fund.

(3) Moneys in the Department of Transportation Operating Fund established by subsections (1) and (2) of this section may be spent only as follows:

(a) Taxes described in subsection (2)(a) of this section may be used only for payment of expenses of the Department of Transportation that:

(A) May not constitutionally be paid from revenues described in section 3a, Article IX of the Oregon Constitution;

(B) Are incurred in the performance of functions the department is statutorily required or authorized to perform; and

(C) Are not payable from moneys described in paragraphs (b) to (e) of this subsection.

(b) Fees collected under subsection (2)(b) of this section may be used only to carry out the regulatory functions of the department relating to the businesses that generate the fees.

(c) Fees collected under ORS 822.705 may be used only for the purposes described in ORS 822.705.

(d) Moneys collected from civil penalties imposed under ORS 822.009 or 822.075 may be used only for regulation of vehicle dealers.

(e) Moneys collected under ORS 807.410 from fees for identification cards shall be used first to pay the expenses of the department for performing the functions of the department relating to identification cards. After paying the expenses related to identification cards, the department shall transfer the remaining moneys collected under ORS 807.410 to the Elderly and Disabled Special Transportation Fund established in ORS 391.800.

(f) Moneys from the permits described in subsection (2)(f) of this section may be used for costs of issuing the permits and monitoring the activities that generate the fees.

(g) Moneys from interest and other earnings on moneys in the operating fund may be used for any purpose for which other moneys in the fund may be used.

SECTION 23. ORS 184.642, as amended by section 62, chapter 655, Oregon Laws 2003, is amended to read:

184.642. (1) The Department of Transportation Operating Fund is established in the State Treasury separate and distinct from the General Fund and separate and distinct from the State Highway Fund. Except as otherwise provided in subsection (3)(e) of this section, moneys in the Department of Transportation Operating Fund are continuously appropriated to the Department of Transportation to pay expenses of the department that are incurred in the performance of functions the department is statutorily required or authorized to perform and that may not constitutionally be paid from revenues described in section 3a, Article IX of the Oregon Constitution.

(2) The operating fund shall consist of the following:

(a) Taxes paid on motor vehicle fuels or on the use of fuel in a motor vehicle for which a person is entitled to a refund under a provision described in this paragraph but for which no refund is claimed, in amounts determined under ORS 184.643. This paragraph applies to refund entitlements described in ORS 319.280 (1)(a) and (e), 319.320 (1)(a) and 319.831 (1)(b).

(b) Fees collected under ORS 822.700 for issuance or renewal of:

(A) [Wrecker] **Dismantler** certificates;

(B) Vehicle dealer certificates;

(C) Driver training certificates;

(D) Commercial driver training school certificates; and

(E) Appraiser certificates.

(c) Fees collected under ORS 822.705.

(d) Moneys from civil penalties imposed under ORS 822.009.

(e) Fees collected under ORS 807.410 for identification cards.

(f) Fees collected by the department for issuance of permits to engage in activities described in ORS 374.305 to 374.330 that are not directly connected to the construction, reconstruction, improvement, repair, maintenance, operation and use of a public highway, road, street or roadside rest area.

(g) Interest and other earnings on moneys in the operating fund.

(3) Moneys in the Department of Transportation Operating Fund established by subsections (1) and (2) of this section may be spent only as follows:

(a) Taxes described in subsection (2)(a) of this section may be used only for payment of expenses of the Department of Transportation that:

(A) May not constitutionally be paid from revenues described in section 3a, Article IX of the Oregon Constitution;

(B) Are incurred in the performance of functions the department is statutorily required or authorized to perform; and

(C) Are not payable from moneys described in paragraphs (b) to (e) of this subsection.

(b) Fees collected under subsection (2)(b) of this section may be used only to carry out the regulatory functions of the department relating to the businesses that generate the fees.

(c) Fees collected under ORS 822.705 may be used only for the purposes described in ORS 822.705.

(d) Moneys collected from civil penalties imposed under ORS 822.009 may be used only for regulation of vehicle dealers.

(e) Moneys collected under ORS 807.410 from fees for identification cards shall be used first to pay the expenses of the department for performing the functions of the department relating to identification cards. After paying the expenses related to identification cards, the department shall transfer the remaining moneys collected under ORS 807.410 to the Elderly and Disabled Special Transportation Fund established in ORS 391.800.

(f) Moneys from the permits described in subsection (2)(f) of this section may be used for costs of issuing the permits and monitoring the activities that generate the fees.

(g) Moneys from interest and other earnings on moneys in the operating fund may be used for any purpose for which other moneys in the fund may be used.

SECTION 24. ORS 459.005 is amended to read:

459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and 459A.005 to 459A.665:

(1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.

(2) "Board of county commissioners" or "board" includes a county court.

(3) "Collection service" means a service that provides for collection of solid waste or recyclable material or both but does not include that part of a business operated under a certificate issued under ORS 822.110.

(4) "Commercial" means stores, offices including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals and other nonmanufacturing entities, but does not include other manufacturing activities or business, manufacturing or processing activities in residential dwellings.

(5) "Commission" means the Environmental Quality Commission.

(6) "Compost" means the controlled biological decomposition of organic material or the product resulting from such a process.

(7) "Department" means the Department of Environmental Quality.

(8)(a) "Disposal site" means land and facilities used for the disposal, handling or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site.

(b) "Disposal site" does not include:

(A) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;

(B) A facility subject to the permit requirements of ORS 468B.050 or 468B.053;

(C) A site used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service; or

(D) A site operated by a [wrecker] **dismantler** issued a certificate under ORS 822.110.

(9) "Energy recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

(10) "Franchise" includes a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services.

(11) "Hazardous waste" has the meaning given that term in ORS 466.005.

(12) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. "Household hazardous waste" may include but is not limited to some cleaners, solvents, pesticides and automotive and paint products.

(13) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.

(14) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(15) "Local government unit" means a city, county, metropolitan service district formed under ORS chapter 268, sanitary district or sanitary authority formed under ORS chapter 450, county service district formed under ORS chapter 451, regional air quality control authority formed under ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible for solid waste management.

(16) "Material recovery" means any process of obtaining from solid waste, by presegregation or otherwise, materials that still have useful physical or chemical properties and can be reused or recycled for some purpose.

(17) "Metropolitan service district" means a district organized under ORS chapter 268 and exercising solid waste authority granted to such district under this chapter and ORS chapters 268 and 459A.

(18) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(19) "Recyclable material" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

(20) "Recycling" means any process by which solid waste materials are transformed into new products in a manner that the original products may lose their identity.

(21) "Region" means the states of Idaho, Oregon and Washington and those counties in California and Nevada that share a common border with Oregon.

(22) "Regional disposal site" means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this subsection, "immediate service area" means the county boundary of all counties except a county that is within the boundary of the metropolitan service district. For a county within the metropolitan service district, "immediate service area" means the metropolitan service district boundary.

(23) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(24) "Solid waste" means all useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386. "Solid waste" does not include:

(a) Hazardous waste as defined in ORS 466.005.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

(25) "Solid waste management" means prevention or reduction of solid waste, management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste, recycling, reuse and material or energy recovery from solid waste and facilities necessary or convenient to such activities.

(26) "Source separate" means that the person who last uses recyclable material separates the recyclable material from solid waste.

(27) "Transfer station" means a fixed or mobile facility other than a collection vehicle where solid waste is deposited temporarily after being removed from the site of generation but before being transported to a final disposal location.

(28) "Waste prevention" means to reduce the amount of solid waste generated or resources used, without increasing toxicity, in the design, manufacture, purchase or use of products or packaging. "Waste prevention" does not include reuse, recycling or composting.

(29) "Wasteshed" means an area of the state having a common solid waste disposal system or designated by the commission as an appropriate area of the state within which to develop a common recycling program.

(30) "Yard debris" includes grass clippings, leaves, hedge trimmings and similar vegetative waste generated from residential property or landscaping activities, but does not include stumps or similar bulky wood materials.

SECTION 25. ORS 459.705 is amended to read:

459.705. As used in ORS 459.705 to 459.790:

(1) "Danger" or "nuisance" includes but is not limited to the unpermitted storage of waste tires or the storage of waste tires in a manner that does not comply with a condition of a permittee's waste tire storage permit.

(2) "Director" means the Director of the Department of Environmental Quality.

(3) "Dispose" means to deposit, dump, spill or place any waste tire on any land or into any waters of the state as defined by ORS 468B.005.

(4) "Private carrier" means a person who receives or generates waste tires and who operates a motor vehicle over the public highways of this state for the purpose of transporting persons or property when the transportation is incidental to a primary business enterprise, other than transportation, in which the person is engaged. "Private carrier" does not include a person whose primary tire business is collecting, sorting or transporting used or waste tires.

(5) "Retreadable casing" means a waste tire suitable for retreading.

(6) "Store" or "storage" means to accumulate waste tires above ground, or to own or control property on which there are waste tires above ground. "Storage" includes the beneficial use of waste tires as fences and other uses with similar potential for causing environmental risks. "Storage" does not include the use of waste tires as a ballast to maintain covers on agricultural materials or at a construction site or a beneficial use such as a planter except when the department determines the use creates an environmental risk.

(7) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle in which a person or property is or may be transported in or drawn by upon a highway.

(8) "Tire carrier" means any person engaged in picking up or transporting waste tires for the purpose of storage, removal to a processor or disposal. "Tire carrier" does not include a solid waste collector operating under a license or franchise from any local government unit, a private individual or private carrier who transports the person's own waste tires to a processor or for proper disposal, a person who transports fewer than five tires for disposal, or the United States, the State of Oregon, any county, city, town or municipality in this state, or any agency of the United States, the State of Oregon or a county, city, town or municipality of this state.

(9) "Tire retailer" means any person actively engaged in the business of selling new replacement tires.

(10) "Tire retreader" means any person actively engaged in the business of retreading waste tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

(11) "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

[(12) "Wrecking business" means a business operating according to a certificate issued under ORS 822.110.]

SECTION 26. ORS 459.715 is amended to read:

459.715. (1) No person shall store more than 100 waste tires anywhere in this state except at a waste tire storage site operated under a permit issued under ORS 459.745.

(2) Subsection (1) of this section shall not apply to:

(a) A solid waste disposal site permitted by the Department of Environmental Quality if the permit has been modified by the department to authorize the storage of tires;

(b) A tire retailer with not more than 1,500 waste tires in storage;

(c) A tire retreader with not more than 3,000 waste tires in storage so long as the waste tires are of the type the retreader is actively retreading; or

(d) A [wrecking] **motor vehicle dismantling** business **issued a certificate under ORS 822.110** with not more than 1,500 waste tires in storage.

SECTION 27. ORS 819.010 is amended to read:

819.010. (1) A person commits the offense of failure to comply with requirements for destruction of a vehicle if the person wrecks, dismantles, disassembles or substantially alters the form of any

vehicle that is or is required to be registered or titled under the vehicle code or under ORS chapter 826 and the person does not comply with all of the following:

(a) The person must give notice to the Department of Transportation, in a form specified by the department, of the person's intention to dismantle, disassemble, wreck or substantially alter the form of the vehicle at least seven days prior to commencement thereof.

(b) If the vehicle is visible from a public right of way, the person must complete the wrecking, dismantling, disassembling or substantial alteration of form within 30 days from the commencement thereof.

(c) If the vehicle is registered by this state, the person must deliver or mail to the department the registration card, certificate of title, if one has been issued, and registration plates of the vehicle within 30 days after the person wrecks, dismantles, disassembles or substantially alters the form of the vehicle.

(d) If no certificate of title has been issued for the vehicle, the person must notify the department in a manner determined by the department by rule within 30 days after the person wrecks, dismantles, disassembles or substantially alters the form of the vehicle.

(e) If required to do so under ORS 819.016, the person shall apply for a salvage title for the vehicle.

(2) Subsection (1)(a) and (b) of this section do not apply to persons who are acting within the scope of a [*wrecker*] **dismantler** certificate issued under ORS 822.110.

(3) The offense described in this section, failure to comply with requirements for destruction of vehicle, is a Class A misdemeanor.

SECTION 28. ORS 819.040 is amended to read:

819.040. (1) A person commits the offense of illegal salvage procedures if the person engages in crushing, compacting or shredding of vehicles and the person violates any requirements under the following:

(a) The person may accept vehicles as salvage material from other persons who hold a [*certificate as a wrecker*] **dismantler certificate** issued under ORS 822.110.

(b) Except as otherwise provided in this subsection, the person may not accept vehicles from another person who does not hold a [*certificate as a wrecker*] **dismantler certificate** issued under ORS 822.110, unless the other person:

(A) Complies with the requirements of ORS 819.010, or is in possession of a certificate of sale issued under ORS 819.240 or of a salvage title certificate; and

(B) Displays a salvage title certificate, a compliance form issued under ORS 819.030, or a certificate of sale to the person engaged in salvage.

(c) The person engaged in salvage may accept a copy of the Department of Transportation form issued under ORS 819.030 as proof of compliance under ORS 819.010 or may accept a certificate of sale or a salvage title certificate, as applicable, and surrender such copy or certificate to the department.

(d) The person may accept vehicles as salvage material from authorities or tow businesses disposing of vehicles as authorized under ORS 819.215 if the authority or tow business gives the person a copy of notification made to the department under ORS 819.215.

(2) If a salvage title has been issued in a form other than a certificate, the person engaged in salvage may accept documents or information in a manner or form determined by the department by rule.

(3) The offense described in this section, illegal salvage procedures, is a Class A misdemeanor.

SECTION 29. ORS 819.215 is amended to read:

819.215. (1) If an abandoned vehicle is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230, the person who towed the vehicle or the authority that requested the tow, if the authority chooses to dispose of the vehicle, shall:

(a) Notify the registered owner and secured parties as provided in subsection (3) of this section;

(b) Photograph the vehicle;

(c) Notify the Department of Transportation that the vehicle will be disposed of; and

(d) Unless the vehicle is claimed by a person entitled to possession of it within 15 days of the date of notice under subsection (3) of this section, dispose of the vehicle and its contents to a person who holds a valid [*wrecker*] **dismantler** certificate issued under ORS 822.110.

(2) The authority that requests towing of an abandoned vehicle shall provide the tow company, at the time of the tow, the name and address of the registered owner of the vehicle, as shown by records of the department, and the names and addresses of any persons claiming interests in the vehicle, as shown by records of the department.

(3) The person who tows the vehicle, or the authority that requested the tow if the authority chooses to dispose of the vehicle, shall give written notice, within 48 hours of the day the vehicle was towed, to the persons whose names are furnished under subsection (2) of this section. The 48 hours shall not include Saturdays, Sundays or holidays. The notice shall state that a person entitled to possession of the vehicle has 15 days from the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be disposed of as provided in this section.

(4) Disposal of a vehicle to a [*wrecker*] **dismantler** as provided in this section extinguishes all prior ownership and possessory rights.

(5) The department shall adopt rules specifying the form in which notification to the department required by subsection (1) of this section shall be submitted and what information shall be conveyed to the department. The person disposing of the vehicle may submit to the [*wrecker*] **dismantler** a copy of any notification submitted to the department under this section instead of submitting to the [*wrecker*] **dismantler** ownership or other title documents for the vehicle.

SECTION 30. ORS 819.220 is amended to read:

819.220. (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is appraised at a value of \$1,000 or less, or if it is an abandoned vehicle appraised at a value of \$1,000 or less but more than \$500, the authority with custody of the vehicle may dispose of the vehicle without notice and public auction if any of the following occur:

(a) The owner of the vehicle and any lessor or security interest holder shown in the records of the Department of Transportation sign a release, under oath, disclaiming any future interest in the vehicle.

(b) The owner and any lessor or security interest holder shown in the records of the department have been sent notification of the location of the vehicle and, within 15 days after the date the notification is mailed, the persons notified have not signed releases or the vehicle has not been reclaimed. Failure to sign a release or to reclaim the vehicle shall constitute a waiver of interest in the vehicle.

(2) Upon completion of the requirements under this section, the authority may sell the vehicle without notice and public auction to any of the persons described in this subsection. The authority shall issue to the person purchasing the vehicle a certificate of sale described under ORS 819.240 and shall notify the person that the person might be required by the provisions of ORS 819.016 to apply for a salvage title. The authority may sell a vehicle under this subsection to any of the following:

(a) A [*wrecker*] **dismantler** with a certificate issued under ORS 822.110.

(b) Any other person who complies with the provisions of ORS 819.010.

(3) Upon disposition of a vehicle under this section the vehicle shall cease to be a vehicle for purposes of the vehicle code, except as provided in the following:

(a) The person purchasing the vehicle is subject to the provisions of ORS 819.010 and 819.040 relating to salvage procedures and requirements for destruction of vehicles.

(b) The provisions of ORS 819.030 apply to the procedures of the department relating to the vehicle, as appropriate.

(4) The authority to sell or dispose of a vehicle under this section is in addition to any authority under ORS 819.210.

SECTION 31. ORS 819.440 is amended to read:

819.440. When a police officer discovers a vehicle or component, including a transmission, engine or other severable portion of a vehicle which possesses or did possess an identification number,

from which the vehicle identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed the police officer may seize and hold it for identification and disposal as provided under the following:

(1) The police agency having custody of the property shall have a specially qualified inspector or police officer inspect the property for the purpose of locating the identification number.

(2) If the identification number is found it shall be checked with the list of stolen vehicles maintained by the National Crime Information Center.

(3) If the identification number is not found the police agency shall apply to the Department of Transportation for renumbering under ORS 819.400.

(4) When the property is not listed as stolen and the identification number is established, the property shall be returned to the person from whom it was seized if:

(a) The person can establish that the person is the owner of the property;

(b) The person executes a good and valid surety bond in an amount at least equal to the market value of the property and conditioned upon return of the property to the owner, if one can be established; or

(c) The person has a certificate as a vehicle dealer issued under ORS 822.020 or a **dismantler** certificate [*as a wrecker*] issued under ORS 822.110.

(5) If the person to whom the property was returned does not establish the person's ownership of the property, the police agency shall make reasonable efforts to determine the names and addresses of the owner and all persons of record having an interest in the property. If the police agency is able to determine the names and addresses of the owner and such other interested persons it shall immediately notify the owner by registered or certified mail of the disposition of the property.

(6) If the identification number of property seized is not established or if the property is reported as stolen the police agency having custody of the property shall do all of the following:

(a) After making reasonable efforts to ascertain the names and addresses of the owner and all persons of record having an interest in the property, notify the person from whom the property was seized, and the owner and such other persons if they can be ascertained, of their right to respond within 60 days from the issuance of the notice through court action for the return of the seized property.

(b) Advertise, as required by this subsection, the taking of the property, the description thereof and a statement of the rights of an owner or other persons of record having an interest in the property to respond through court action for the return of the seized property.

(c) Place the advertisement in a daily newspaper published in the city or county where the property was taken, or if a daily newspaper is not published in such city or county, in a newspaper having weekly circulation in the city or county, once a week for two consecutive weeks and by handbills posted in three public places near the place of seizure.

(7) If court action is not initiated within 60 days from the issuance of notice the property shall be sold at public auction by the sheriff or other local police agency having custody of the property.

(8) Property seized and held by or at the direction of the Department of State Police shall be delivered to the sheriff of the county in which the vehicle was located at the time it was taken into custody for sale under this subsection.

(9) The sheriff or other local police agency, after deducting the expense of keeping the property and the cost of sale, shall do the following:

(a) Pay all the security interests, according to their priorities which are established by intervention or otherwise at such hearing or in other proceeding brought for that purpose.

(b) Pay the balance of the proceeds into the general fund of the unit of government employing the officers of the selling police agency.

SECTION 32. ORS 822.027 is amended to read:

822.027. (1) Except as provided in subsection (2) of this section, the following education requirements apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040:

(a) An applicant for a vehicle dealer certificate under ORS 822.020 must complete a minimum of eight hours of approved education programs described in subsection (4) of this section and pass a test prior to submitting an application for the certificate; and

(b) An applicant for a renewal certificate under ORS 822.040 must complete a minimum of five hours per year in a licensing period of approved continuing education programs described in subsection (4) of this section prior to submitting an application for the renewal certificate.

(2) The education requirements in subsection (1)(a) of this section do not apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040 if, at the time of application, the applicant holds another certificate issued under ORS 822.020 or 822.040.

(3) The continuing education requirements of subsection (1)(b) of this section do not apply to an applicant for renewal of a vehicle dealer certificate under ORS 822.040 if the applicant is:

(a) A dealer having a franchise in this state for nationally advertised and recognized motor vehicles;

(b) A dealer having a franchise in this state for new recreational vehicles;

(c) A motor vehicle rental company having a national franchise under the ownership of a corporation that operates throughout the United States;

(d) A dealer that primarily sells manufactured dwellings; or

(e) A national auction company that holds a vehicle dealer certificate and a *[wrecker]* **dismantler** certificate whose primary activity in this state is the sale or disposition of totaled vehicles.

(4) Education programs and the test required in subsection (1) of this section may be developed by any motor vehicle industry organization including, but not limited to, the Oregon Independent Auto Dealers Association and shall be submitted to the advisory committee established under ORS 802.370 for approval. The committee shall approve any program or test that pertains to the motor vehicle industry and includes state and federal law in at least the following areas:

(a) Motor vehicle advertising;

(b) Odometer laws and regulations;

(c) Vehicle licensing and registration;

(d) Unlawful dealer activities;

(e) Environmental rules and regulations;

(f) Oregon and industry standard motor vehicle forms;

(g) Truthful lending practices;

(h) Motor vehicle financing;

(i) Service and warranty contracts; and

(j) Land use regulations governing motor vehicle dealers.

(5) Education programs and the test required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations if the education programs and test have been approved by the advisory committee established under ORS 802.370 as required in subsection (4) of this section.

SECTION 33. ORS 822.027, as amended by section 127, chapter 655, Oregon Laws 2003, is amended to read:

822.027. (1) Except as provided in subsection (2) of this section, the following education requirements apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040:

(a) An applicant for a vehicle dealer certificate under ORS 822.020 must complete a minimum of eight hours of approved education programs described in subsection (4) of this section and pass a test prior to submitting an application for the certificate; and

(b) An applicant for a renewal certificate under ORS 822.040 must complete a minimum of five hours per year in a licensing period of approved continuing education programs described in subsection (4) of this section prior to submitting an application for the renewal certificate.

(2) The education requirements in subsection (1)(a) of this section do not apply to an applicant for a vehicle dealer certificate under ORS 822.020 or 822.040 if, at the time of application, the applicant holds another certificate issued under ORS 822.020 or 822.040.

(3) The continuing education requirements of subsection (1)(b) of this section do not apply to an applicant for renewal of a vehicle dealer certificate under ORS 822.040 if the applicant is:

(a) A dealer having a franchise in this state for nationally advertised and recognized motor vehicles;

(b) A dealer having a franchise in this state for new recreational vehicles;

(c) A motor vehicle rental company having a national franchise under the ownership of a corporation that operates throughout the United States; or

(d) A national auction company that holds a vehicle dealer certificate and a [wrecker] **dismantler** certificate whose primary activity in this state is the sale or disposition of totaled vehicles.

(4) Education programs and the test required in subsection (1) of this section may be developed by any motor vehicle industry organization including, but not limited to, the Oregon Independent Auto Dealers Association and shall be submitted to the advisory committee established under ORS 802.370 for approval. The committee shall approve any program or test that pertains to the motor vehicle industry and includes state and federal law in at least the following areas:

(a) Motor vehicle advertising;

(b) Odometer laws and regulations;

(c) Vehicle licensing and registration;

(d) Unlawful dealer activities;

(e) Environmental rules and regulations;

(f) Oregon and industry standard motor vehicle forms;

(g) Truthful lending practices;

(h) Motor vehicle financing;

(i) Service and warranty contracts; and

(j) Land use regulations governing motor vehicle dealers.

(5) Education programs and the test required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations if the education programs and test have been approved by the advisory committee established under ORS 802.370 as required in subsection (4) of this section.

SECTION 34. ORS 822.094 is amended to read:

822.094. A sale, consignment or other transfer by a lien claimant does not constitute a sale for purposes of ORS 822.015 (13) if the sale, consignment or other transfer is to the holder of a current, valid [wrecker] **dismantler** certificate issued under ORS 822.110 or to the holder of a current, valid vehicle dealer certificate issued under ORS 822.020.

SECTION 35. ORS 822.150 is amended to read:

822.150. (1) A person commits the offense of failure to return a revoked, canceled or suspended [wrecker] **dismantler** certificate or identification card if the Department of Transportation 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 department.

(2) The offense described in this section, failure to return a revoked, canceled or suspended [wrecker] **dismantler** certificate or identification card, is a Class A misdemeanor.

SECTION 36. ORS 801.020, as amended by section 84b, chapter 655, Oregon Laws 2003, is amended to read:

801.020. This section contains statements of purpose or intent that are applicable to portions of the vehicle code as described in the following:

(1) The provisions of the vehicle code and other statutory provisions described in this subsection are an exercise of the police powers of this state, and the purpose, object and intent of the sections is to provide a comprehensive system for the regulation of all motor and other vehicles in this state. This subsection is applicable to the following:

(a) Those provisions of the vehicle code relating to the administration of the Department of Transportation.

(b) Those provisions of the vehicle code relating to the registration and titling of vehicles.

(c) Those provisions of the vehicle code relating to the regulation of the businesses of vehicle dealers, [*wreckers*] **dismantlers**, vehicle transporters, driver training schools and instructors and the towing and recovery of vehicles.

(d) Those provisions relating to the transfer and alteration of vehicles.

(2) It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of motor vehicle reciprocal or proportional registration agreements, arrangements and declarations with other states, provinces, territories and countries with respect to vehicles registered in this and such other states, provinces, territories and countries, thus contributing to the economic and social development and growth of this state.

(3) The provisions described in this subsection shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and on the ocean shore which has been or may hereafter be declared a state recreation area. This subsection applies to provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(4) The provisions of the vehicle code applicable to drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, district or any other political subdivision of this state, subject to such specific exceptions as are set forth in the vehicle code.

(5) Except as provided otherwise by federal law, the provisions of the vehicle code shall be applicable and uniform on federal lands within this state.

(6) Except as provided otherwise by federal law, traffic rules and regulations which are promulgated by a federal authority having jurisdiction over federal lands within this state and which vary from the provisions of the vehicle code shall be the law of the local authority within whose boundaries the federal land is located, and enforceable as such, if:

(a) Local authorities are authorized to vary in the same manner under the provisions of the vehicle code; and

(b) Prior approval for the variance has been obtained by the federal authority from the governing body of the local authority within whose boundaries the federal land is located.

(7) The vehicle code shall govern the construction of and punishment for any vehicle code offense committed after June 27, 1975, the construction and application of any defense to a prosecution for such an offense and any administrative proceedings authorized or affected by the vehicle code.

(8) When all or part of a vehicle code statute is amended or repealed, the statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing Act.

(9) The provisions of the vehicle code described in this subsection relating to the operation of vehicles refer exclusively to operation of vehicles upon highways and the ocean shore which has been or may hereafter be declared to be a state recreation area, except where the vehicle code specifically provides otherwise. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(10) All reciprocity and proportional registration agreements, arrangements and declarations relating to vehicles, in force and effect on August 22, 1969, shall continue in force and effect until specifically amended or revoked as provided by law or by such arrangements or agreements.

(11) It is hereby declared to be the policy of this state:

(a) To provide maximum safety for all persons who travel or otherwise use the public highways of this state;

(b) To deny the privilege of operating motor vehicles on the public highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the state, the orders of its courts and the statutorily required acts of its administrative agencies; and

(c) To discourage repetition of criminal acts by individuals against the peace and dignity of the state and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws.

(12) If any of the provisions under ORS 818.200 relating to variance permits are found to contravene section 127 of title 23, United States Code, it shall not serve to render inoperative any remaining of such provisions that may be held not to conflict with that federal law.

SECTION 37. ORS 802.010 is amended to read:

802.010. (1) The Department of Transportation shall perform all of the duties, functions and powers with respect to the following:

(a) The administration of the laws relating to the motor vehicle fuel license tax, aircraft fuel license tax and use fuel license tax including ORS chapter 319.

(b) The administration of the laws relating to motor vehicle registration and titling and the issuance of certificates to vehicle dealers and [*vehicle wreckers*] **dismantlers** including but not limited to the administration of the vehicle code.

(c) The administration of the laws relating to driving privileges granted under licenses and permits and under the vehicle code.

(d) The administration of the laws relating to operation of vehicles on highways and of vehicle size, weight and use limits under the vehicle code.

(e) The administration of ORS 820.130 and 820.140.

(f) The administration of the provisions relating to proof of financial responsibility and future responsibility filings.

(2) The Director of Transportation shall act as a reciprocity officer for the purposes of ORS 802.500 and 802.520.

(3) The director shall have the authority to execute or make such arrangements, agreements or declarations to carry out the provisions of ORS 802.500 and 802.520. The director shall receive no additional compensation for service performed under this subsection but shall be allowed actual and necessary expenses incurred in the performance of the duties to be paid from the account of the department.

SECTION 38. ORS 810.480 is amended to read:

810.480. (1) A police officer, during normal business hours, may inspect the records a vehicle dealer is required to keep under ORS 822.045 and vehicles included in the inventory or located on the premises of a dealer issued a certificate under ORS 822.020. The inspections shall be limited in scope to that necessary to determine compliance with the regulation of dealers under the vehicle code and with vehicle title and registration provisions under the vehicle code and for the purposes of identifying stolen vehicles.

(2) A police officer, at any time, may inspect the books, records and inventory of and premises used by any business issued a certificate under ORS 822.110 for the purpose of determining whether the provisions relating to the regulation of [*wreckers*] **dismantlers**, rules adopted by the Department of Transportation relating to the regulation of [*wreckers*] **dismantlers** and laws relating to licensing, titling and wrecking of vehicles are being complied with. Every business issued a certificate under ORS 822.110 shall be inspected not less than two times each year.

SECTION 39. ORS 822.605 is amended to read:

822.605. (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*] **vehicle dismantlers**, 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.

SECTION 40. ORS 803.565, as amended by section 1, chapter 61, Oregon Laws 2005 (Enrolled House Bill 2114), is amended to read:

803.565. (1) Except as provided in subsections (2) and (3) of this section, when a person who has a vehicle dealer certificate issued under ORS 822.020 or a towing business certificate issued under ORS 822.205 sells a motor vehicle that has valid Oregon registration plates, the person shall remove the registration stickers from the registration plates of the vehicle if the vehicle:

- (a) Has a gross vehicle weight rating of 8,000 pounds or less;
- (b) Is designed to carry passengers; and
- (c) Is not a motorcycle, moped or snowmobile.

(2) A person who has a vehicle dealer certificate issued under ORS 822.020 need not remove registration stickers under subsection (1) of this section if:

- (a) The person submits title and registration documents to the Department of Transportation on behalf of the buyer of the vehicle; or
- (b) The person sells the vehicle to another person who has a vehicle dealer certificate issued under ORS 822.020.

(3) A person who has a towing business certificate issued under ORS 822.205 need not remove registration stickers under subsection (1) of this section if the person sells the vehicle to a person who has a vehicle dealer certificate issued under ORS 822.020 or to a person who has a [wrecker] dismantler certificate issued under ORS 822.110.

Passed by House May 17, 2005

Received by Governor:

Repassed by House July 15, 2005

.....M.,....., 2005

Approved:

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

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Governor

Passed by Senate July 11, 2005

Filed in Office of Secretary of State:

.....M.,....., 2005

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President of Senate

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Secretary of State