

House Bill 2818

Sponsored by Representative EVANS (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands definition of "consumer contract" to include purchases of used motor vehicles used primarily for personal, family or household purposes. Allows consumer to revoke provision of consumer contract that requires consumer to assert claim against other party to contract in forum that is not in this state. Provides that if provision in contract requires arbitration in forum that is not in this state, sole effect of revocation is that proceeding that requires or allows attendance by consumer must be conducted in this state. Provides that party seeking to enforce revoked provision is liable for reasonable attorney fees incurred by consumer.

Expands offense of acting as vehicle dealer without certificate to include individuals who act as agents of Department of Transportation without authorization.

Establishes civil cause of action for improper sale of vehicle.

A BILL FOR AN ACT

1
2 Relating to motor vehicles; creating new provisions; and amending ORS 81.150 and 822.005.

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

4 **SECTION 1.** ORS 81.150 is amended to read:

5 81.150. (1) For the purposes of this section:

6 (a) "Consumer" means an individual who is purchasing goods or services for personal, family
7 or household purposes.

8 (b) "Consumer contract" means a contract entered into by a consumer for the purchase of:

9 (A) Goods or services for personal, family or household purposes, in which the total cost of the
10 purchase is \$15,000 or less; **or**

11 (B) **A used motor vehicle by an individual primarily for personal, family or household**
12 **purposes.**

13 (2) A consumer may revoke a provision in a consumer contract that requires the consumer to
14 assert a claim against the other party to the contract, or respond to a claim by the other party to
15 the contract, in a forum that is not in this state. If the provision requires arbitration in a forum that
16 is not in this state, the sole effect of a revocation under this section is that any evidentiary hearing,
17 oral argument or other proceeding that requires or allows attendance by the consumer must be
18 conducted in this state.

19 (3) Revocation of a provision under this section must be made in writing and communicated by
20 the consumer to the other party within a reasonable time after a dispute arises.

21 (4) This section applies only to a consumer contract that was entered into by a consumer when
22 the consumer was a resident of this state.

23 (5) A party seeking to enforce a revoked provision is liable for reasonable attorney fees incurred
24 by a consumer in any litigation that results from the attempted enforcement of the revoked pro-
25 vision.

26 **SECTION 2.** ORS 822.005 is amended to read:

27 822.005. (1) A person commits the offense of acting as a vehicle dealer without a certificate if

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 the person is not the holder of a valid, current vehicle dealer certificate issued under ORS 822.020
2 and the person:

3 (a) Buys, sells, brokers, trades or exchanges vehicles either outright or by means of any condi-
4 tional sale, bailment, lease, security interest, consignment or otherwise;

5 (b) Displays a new or used vehicle, trailer or semitrailer for sale; *[or]*

6 (c) Acts as any type of agent for the owner of a vehicle to sell the vehicle or acts as any type
7 of agent for a person interested in buying a vehicle to buy a vehicle; **or**

8 **(d) Acts as an agent, under ORS 802.031, for the Department of Transportation for pur-**
9 **poses of accepting documents and fees necessary to title and register a vehicle without au-**
10 **thorization to act as an agent.**

11 (2) This section does not apply to persons or vehicles exempted from this section under ORS
12 822.015.

13 (3) The offense described in this section, acting as a vehicle dealer without a certificate, is a
14 Class A misdemeanor.

15 **SECTION 3. Section 4 of this 2023 Act is added to and made a part of the Oregon Vehicle**
16 **Code.**

17 **SECTION 4. (1) A plaintiff has a cause of action for improper sale of a vehicle if the**
18 **plaintiff establishes by a preponderance of the evidence that:**

19 **(a) The defendant sold a vehicle to the plaintiff; and**

20 **(b) The defendant performed or offered to perform duties as an agent of the Department**
21 **of Transportation under ORS 802.031, without authorization to act as an agent.**

22 **(2) A plaintiff who prevails in a claim under this section may recover:**

23 **(a) A full refund of the purchase price of the vehicle;**

24 **(b) Expenses associated with returning the vehicle to the defendant;**

25 **(c) Economic damages and noneconomic damages, as those terms are defined in ORS**
26 **31.705;**

27 **(d) Reasonable attorney fees; and**

28 **(e) Any other appropriate equitable relief.**

29 **(3) An action under this section must be commenced not later than one year after the**
30 **date of purchase.**

31 **(4) This section does not apply to persons or vehicles exempted from ORS 822.005 as**
32 **provided under ORS 822.015.**

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