

Senate Bill 113

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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**.

Authorizes court to award prevailing retail customers, who bring actions against vehicle dealers, attorney fees under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to vehicle dealers; creating new provisions; and amending ORS 822.030.

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

4 **SECTION 1.** ORS 822.030 is amended to read:

5 822.030. (1) A bond or letter of credit required to qualify for a vehicle dealer certificate under
6 ORS 822.020 or to qualify for renewal of a certificate under ORS 822.040 must comply with all of the
7 following:

8 (a) The bond shall have a corporate surety licensed to do business within this state. A letter
9 of credit shall be an irrevocable letter of credit issued by an insured institution, as defined in ORS
10 706.008. The surety or institution shall notify the Department of Transportation if the bond or letter
11 of credit is canceled for any reason. The surety or institution shall continue to be liable under the
12 bond or letter of credit until the department receives the notice required by this paragraph, or until
13 the cancellation date specified in the notice, whichever is later.

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

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

17 (A) If the person holds a certificate to be a dealer exclusively in motorcycles, mopeds, Class I
18 all-terrain vehicles or snowmobiles or any combination of those vehicles, the bond or letter of credit
19 shall be for \$10,000.

20 (B) Except as provided in subparagraph (A) of this paragraph, if the applicant is seeking a cer-
21 tificate to be a vehicle dealer, the bond or letter of credit shall be for \$50,000 for each year the
22 certificate is valid.

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

25 (e) The bond or letter of credit must be conditioned that the person issued the certificate shall
26 conduct business as a vehicle dealer without fraud or fraudulent representation and without violat-
27 ing any provisions of the vehicle code relating to vehicle registration, vehicle permits, the transfer
28 or alteration of vehicles or the regulation of vehicle dealers.

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

30 (g) The vehicle dealer shall purchase a bond or letter of credit under this subsection annually

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 on or before each anniversary of the issuance of the vehicle dealer's certificate.

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

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

10 (3) Notwithstanding subsection (2) of this section, the maximum amount available under a bond
 11 or letter of credit described in subsection (1)(c)(B) of this section for the payment of claims to per-
 12 sons other than retail customers of the dealer is \$10,000.

13 (4) Notwithstanding subsection (2) of this section, a person other than a retail customer of the
 14 vehicle dealer may not make a claim under subsection (2) of this section against the surety on the
 15 vehicle dealer's bond, or against the vehicle dealer's letter of credit, if the vehicle dealer holds a
 16 vehicle dealer certificate to deal exclusively in motorcycles, mopeds, Class I all-terrain vehicles or
 17 snowmobiles or any combination of those vehicles.

18 (5) If the certificate of a vehicle dealer is not renewed or is voluntarily or involuntarily can-
 19 celed, the sureties on the bond and the issuer of the letter of credit are relieved from liability that
 20 accrues after the department cancels the certificate.

21 **(6) The court may award reasonable attorney fees to a prevailing plaintiff who brings an**
 22 **action under subsection (2) of this section if the court finds all of the following:**

- 23 **(a) The plaintiff is a retail customer.**
- 24 **(b) A written demand was made on the defendant not less than 30 days before com-**
 25 **mencement of the action requesting compliance or other remedy.**
- 26 **(c) The defendant failed to comply or provide the remedy, including paying the plaintiff**
 27 **reasonable attorney fees and costs incurred by the plaintiff, within 30 days from the date of**
 28 **the written demand.**

29 **SECTION 2. The amendments to ORS 822.030 by section 1 of this 2019 Act apply to con-**
 30 **duct giving cause to a right of action under ORS 822.030 that occurs on or after the effective**
 31 **date of this 2019 Act.**