

## 735-152-0000

### Definitions

As used in ORS chapters 822.100 to 822.150 and this division the following definitions apply:

(1) "Acquires," "acquired" or "acquisition" means physical possession of a motor vehicle together with possession of the vehicle's ownership record.

(2) "Cancellation" has the same meaning as "revocation" as defined in section (19) of this rule.

(3) "Certificate of sale" has the same meaning as defined in ORS 801.183.

(4) "Conspicuously display" as used in ORS 822.133 means letters, numbers or symbols, posted on both sides of the mobile motor vehicle crusher that are:

(a) Six inches or larger in a color that contrasts to the background;

(b) Clearly visible from at least 50 feet in daylight, and readable and easily understood by the public; and

(c) Permanently affixed.

(5) "Date of sale" means the date that a purchaser takes possession of a major component purchased from a dismantler.

(6) "Destroy" has the same meaning as defined in ORS 822.133.

(7) "Dismantler" has the same meaning as defined in ORS 801.236.

(8) "Dismantle" means one or more major component parts are removed from a motor vehicle acquired by a dismantler.

(9) "Dispose" or "disposed of" means a motor vehicle acquired by a dismantler that is transferred to another person or is dismantled or destroyed.

(10) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(11) "Employee" means a person over whom a dismantler exercises the type of control typically associated with an employer, including:

(a) Determining the frequency, method and amount of compensation;

(b) Determining whether the person's work is continuous or intermittent;

(c) Determining the hours or frequency of a person's work; or

(d) Retaining the ability to terminate the relationship.

(12) "Main business location," "primary business location," or "place of business" as used in ORS 822.100 to 822.150 and these rules, means the location identified and listed as the dismantler's main business location on the current business certificate application and does not include a supplemental location or temporary location as defined under sections (22) and (23) of this rule.

(13) "Major component part" has the same meaning as defined in ORS 822.137.

(14) "Mobile motor vehicle crusher" has the same meaning as defined in ORS 822.133.

(15) "Primary ownership document" or "ownership record," as used in ORS 822.135, has the same meaning as "primary ownership" record as defined in 801.402 and includes the primary ownership documents described in OAR 735-020-0010 or an abandoned vehicle certificate described in 735-024-0077.

(16) "Person" means an individual, partnership, corporation, association, or any other business organization if the context in which the term is used could also include these organizational forms.

(17) "Principal" means any owner, partner, corporate officer or other person who controls or manages the business organization or the employees or agents of the business organization.

(18) "Probation" means a period of time specified by DMV that a dismantler may continue to operate, but only under terms or conditions established by DMV.

(19) "Revocation" means to void and terminate a dismantler certificate or the principal's right to apply for a dismantler certificate.

(20) "Sanction" means an action taken by DMV against a dismantler's certificate, or the principal of a dismantler business, for non-compliance with Oregon law or DMV rule related to dismantlers or the operation of a dismantler business.

(21) "Suspension" means the temporary withdrawal of the authority to act as a dismantler.

(22) "Supplemental location," "supplemental place of business," or "additional place of business" as used in ORS 822.100 to 822.150 and these rules, means a location identified and listed on the dismantler's supplemental business location(s) business application and does not include a temporary location or the dismantler's primary business location approved by DMV to operate under the same business name as the primary business location.

(23) "Temporary location" as used in ORS 822.133 and these rules, means a location other than a dismantler's main business location or supplemental location, at which a dismantler may operate, for a period of 15 consecutive business days or less, a mobile motor vehicle crusher to render motor vehicles into crushed motor vehicles.

(24) "Vehicle Business" includes vehicle dealers as defined in OAR 735-150-0010(14), dismantlers, towing businesses, vehicle transporters and repair shops.

(25) "Violation" means any violation of Oregon law or a DMV rule applicable to a dismantler issued a certificate or any person engaged in dismantling activities.

(26) "Warning" means a documented warning or correction notice issued to a principal or employee of a dismantler business.

(27) "Wrecked vehicle" has the same meaning as defined in ORS 822.133.

(28) "Written report" means DMV Form 270, Vehicle Dismantler's Notice and the original ownership record for the vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.135, 822.137 & Chapter 433, Or. Laws 2011  
Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 & 822.150

## **735-152-0005**

### **Dismantler Application**

(1) In addition to the requirements for an application for a dismantler certificate under ORS 822.110, or a renewal under ORS 822.125, an applicant for a dismantler certificate must submit the following to the DMV Business Regulation Section:

(a) A completed and signed Application for Dismantler Certificate (DMV Form 735-373) that includes:

(A) A certification that the dismantler's business complies with the building, enclosure or barrier requirements under ORS 822.135(1) and OAR 734-040-0030;

(B) A state-issued picture identification (a copy of driver license or identification card) for each principal;

(C) The applicant's National Motor Vehicle Title Information System identification number;  
and

(D) If the applicant is a corporation, firm or partnership, the Oregon business registry number assigned by the Secretary of State, Corporation Division.

(b) All applicable fees; and

(c) A completed and signed DMV statement of compliance for surety bond or letter of credit.

(2) In addition to the requirements of section (1) of this rule, the applicant must submit a completed and signed Application for Supplemental Dismantler Certificate (DMV Form 735-373A) for each additional business location other than the dismantler's primary business location.

(3) If a dismantler changes the business location or business name on the dismantler's certificate, the dismantler must submit a completed and signed Application to Correct Dismantler Certificate (DMV Form 735-373B) and obtain a corrected dismantler certificate before business can be conducted at the new location or under the new business name.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.100 - 822.150 & Chapter 433, Or. Laws 2011

Stats. Implemented: ORS 822.100 - 822.150

### **735-152-0020**

#### **Refusal to Issue and Probationary Status of Dismantler Certificate**

(1) DMV will not issue or renew an original dismantler certificate or supplemental certificate to any applicant when it determines:

(a) The application is incomplete or information contained in the application is false;

(b) A principal of the applicant is financially or operationally involved with any vehicle business whose certificate or right to apply for a certificate is currently suspended, canceled or revoked; or

(c) A principal of the applicant:

(A) Has been convicted of a violation of any provision of ORS Chapter 822 within the five years preceding the date of the application;

(B) Has been convicted in any jurisdiction outside of the state of Oregon of any violation of that jurisdiction's statutes relating to vehicle businesses, vehicle registration, title transfers or stolen vehicles within the five years preceding the date of the application; or

(C) Is currently affected by any type of administrative sanction or penalty that prohibits the principal from conducting a vehicle business and relates to vehicle businesses, vehicle registration, title transfers or stolen vehicles in a jurisdiction outside of the state of Oregon.

(2) DMV will not issue or renew an original dismantler certificate or supplemental certificate until it is satisfied the applicant meets all requirements for issuance of a certificate under ORS Chapter 822 and OAR 735, division 152.

(3) DMV may issue or renew an original dismantler certificate or supplemental certificate on a probationary basis if a principal of the applicant is financially or operationally involved with another vehicle business whose certificate or right to apply for a certificate is currently on probation.

(4) DMV will retain the fees paid with an application to cover processing costs when it refuses to issue a certificate.

(5) An applicant who has been refused issuance of a dismantler certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(6) The refused applicant's request for a hearing must be submitted in writing and received by DMV, within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a certificate, pending the outcome of the hearing. In case of a refusal

to renew, the dismantler may continue to operate under the old certificate in accordance with ORS 183.430(1), pending the outcome of the hearing, except when DMV finds that such continued operation would constitute a serious danger to the public health or safety and extends the hearing request period to 90 days in accordance with ORS 183.430(2).

(7) When a dismantler or principal of the dismantler business fails to file a timely request for hearing, the charges shall be considered to have been admitted, the dismantler or principal shall be deemed in default as to those charges, DMV's file shall constitute the record of the case, and the order of refusal shall become final.

Stat. Auth.: ORS 184.616, 184.619, 802.010 822.100 - 822.150  
Stats. Implemented: ORS 822.100 - 822.150

### **735-152-0040**

#### **Dismantler Violations Subject to Sanction**

A dismantler is subject to the sanctions described under OAR 735-152-0050 if the dismantler:

(1) Commits the offense of improperly conducting a motor vehicle dismantling business for any of the reasons set forth in Chapter 433, Or Laws 2011, ORS 822.120, 822.125, 822.133, 822.135, 822.137, 822.145 or relevant rules adopted by DMV.

(2) Allows a person who is not an employee of the dismantler to imply or represent an affiliation with the dismantler business to engage in any activity that would subject that person to dismantler certification and regulatory requirements.

(3) Fails to allow DMV to conduct an inspection.

(4) Is issued notice that the dismantler's bond under ORS 822.120 is cancelled.

(5) Fails to pay any civil penalty imposed under ORS 822.133, 822.137 or 822.145.

(b) The person holding the certificate has violated ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.133, 822.135, 822.137 or 822.150.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137 822.145 & Chapter 433, Or Laws 2011  
Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 & 822.150

### **735-152-0050**

#### **Sanctions**

(1) In addition to any other penalties provided by law, DMV may impose sanctions against any person issued a valid dismantler certificate, any principal of a dismantler business, or both, if DMV determines either has violated any Oregon law or DMV rule relating to the operation of a dismantler business.

(2) Sanctions may be imposed against one or more of the following:

(a) A dismantler's certificate issued under ORS 822.110;

(b) An identification card or supplemental dismantler certificate issued under ORS 822.125;

or

(c) A principal of the dismantler business.

(3) Factors DMV may consider when imposing a sanction against a dismantler include:

(a) The severity of the violation or its impact on the public;

(b) The number of similar or related violations;

(c) Whether a violation was willful or intentional; and

(d) Any previous sanction, civil penalty or warning issued or imposed against the dismantler or principal.

(4) DMV determines the appropriate sanction to impose when it determines a violation has occurred. These may include one or more of the following:

(a) Verbal or written warning, including a correction notice.

(b) Probation under conditions set by DMV, for up to three years.

(c) Suspension of the dismantler certificate and the right to apply for a dismantler certificate, for up to three years.

(d) Revocation of the dismantler certificate and the right to apply for a dismantler certificate. A person subject to permanent revocation of a dismantler certificate is ineligible to apply for a new dismantler certificate, for up to five years.

(e) Suspension of the right of a principal of a dismantler business to apply for a dismantler certificate for a different vehicle-related business, or in a different business name, for up to three years.

(f) Revocation of the right of a principal of a dismantler business to apply for a dismantler certificate for a different vehicle-related business, including a vehicle-related business with a different business name, for up to five years.

(g) Cancellation of the dismantler certificate if it is determined the applicant or a principal of the business is ineligible for a dismantler certificate.

(h) Immediate suspension or cancellation as provided in ORS 822.145(2) upon receipt of legal notice the dismantler's bond under 822.120 is canceled.

(i) Immediate suspension or cancellation for failure to pay any penalty imposed under ORS 822.135 or 822.137.

(5) A dismantler or principal whose business certificate or privileges are suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS Chapter 183.

(6) Except as provided in section (7) of this rule, a dismantler's request for a hearing shall be submitted in writing to and received by DMV within 20 days of the date of the notice of revocation, suspension or cancellation. A hearing request received in a timely manner shall result in a withdrawal of the revocation suspension or cancellation pending the outcome of the hearing.

(7) In the instance of an immediate suspension or cancellation as provided by subsection (4)(g) or (h) of this rule, a dismantler's request for a hearing shall be submitted in writing to and received by DMV within 90 days of the date the notice is issued. A hearing request received in a timely manner shall not result in a withdrawal of the suspension or cancellation pending the outcome of the hearing.

(8) In order for a request for hearing to be timely, the request must be received by DMV within the time periods established in sections (6) and (7) of this rule. If the request for hearing is not timely received, the person waives their right to a hearing, except as provided in OAR 137-003-0528. The time periods will be computed as set forth in 137-003-0520(8).

(9) When DMV does not receive a timely request for a hearing, the dismantler or principal defaults, waives the right to a hearing and DMV's file constitutes the record of the case.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.145 & Chapter 433, Or. Laws 2011

Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145 & 822.150

## **735-152-0060**

### **Civil Penalty Matrix for Certified Dismantlers**

DMV may impose a civil penalty against a motor vehicle dismantler for any violation described under Chapter 433, Or Laws 2011, ORS 803.140, 819.012, 819.016, 819.040, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137 or DMV rules. DMV adopts this civil penalty matrix to determine civil penalty amounts that may be imposed against dismantlers for specific violations. DMV may modify a civil penalty assessed against a dismantler under the provisions of OAR 735-152-0045. Under this rule, an offense is a “second or subsequent offense” if a dismantler committed the same offense within three years of the offense under consideration.

(1) Fraudulently obtaining a dismantler certificate by submission of an application under OAR 735-152-0005 containing a false statement or omission of a material fact: \$1,000, for the first and subsequent violation(s).

(2) Failure to comply with any provision of ORS 803.140 concerning an application for salvage title:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(3) Failure to comply with any provision of ORS 819.012 concerning procedures for a totaled vehicle:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(4) Failure to comply with any provision of ORS 819.016 concerning when a salvage title is required:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(5) Failure to comply with any provision of ORS 819.040 concerning illegal salvage procedures:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(6) Failure to comply with any provision of ORS 822.120 concerning a bond or letter of credit:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(7) Failure to comply with any provision of ORS 822.125 concerning business conducted in the location approved under the certificate:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;

- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.
- (8) Failure to comply with ORS 822.133(2)(a), 822.137(2)(j) or OAR 735-152-0025(3) concerning physically separating or visually labeling a wrecked vehicle:
  - (a) For the first violation: \$250;
  - (b) For the second violation: \$500;
  - (c) For the third and subsequent violation(s): \$1,000.
- (9) Failure to comply with ORS 822.133(2)(b) or 822.137(2)(j) concerning removing parts or destroying a motor vehicle before obtaining an ownership record for the vehicle:
  - (a) For the first violation: \$500;
  - (b) For the second and subsequent violation(s): \$1,000
- (10) Failure to comply with ORS 822.133(2)(c) or 822.137(2)(j) concerning failure to demolish the registration plates of a wrecked vehicle at the time the ownership record is received:
  - (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (11) Failure to comply with ORS 822.133(2)(d) or 822.137(2)(j) concerning failure to notify DMV of any changes in the information provided to the DMV in the application for a dismantler certificate within 30 days of the change:
  - (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (12) Failure to comply with ORS 822.133(2)(e), 822.137(2)(j) or OAR 735-152-0034 concerning furnishing DMV with a written report, in a form established by DMV by rule, after a wrecked vehicle is dismantled or destroyed:
  - (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (13) Failure to comply with ORS 822.133(3)(a)(B), 822.137(2)(j) or OAR 735-152-0034 concerning the conspicuous display of the dismantler's name and certificate number on the mobile motor vehicle crusher:
  - (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (14) Failure to comply with ORS 822.135(1)(a) concerning the requirements to permanently exhibit a dismantler certificate at a place of business:
  - (a) For the first violation; warning;
  - (b) For the second violation: \$500;
  - (c) For the third and subsequent violation(s): \$1,000.
- (15) Failure to comply with ORS 822.135(1)(b) or (L) concerning the requirements to obtain a supplemental dismantler certificate:

- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (16) Failure to comply with ORS 822.135(1)(c) concerning the maintenance of records:
- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (17) Failure to comply with ORS 822.135(1)(d) concerning failure to timely surrender to DMV the title, a certificate of title or other primary ownership document or ownership record for a motor vehicle:
- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (18) Failure to comply with any provision of ORS 822.135 (1)(e) or (m) concerning the inspection of books, records, inventory and premises:
- (a) For the first violation: \$500;
  - (b) For the second and subsequent violation(s): \$1,000.
- (19) Failure to comply with ORS 822.135(1)(f), (g), (k), or DMV rules concerning requirements for dismantler business location and premises:
- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (20) Failure to comply with ORS 822.135(1)(h) concerning conducting any wrecking, dismantling or altering of vehicles outside the building, enclosure, or barrier on the premises of the business:
- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (21) Failure to comply with ORS 822.135(1)(i) concerning the storage or display of motor vehicles or major component parts, or conducting motor vehicle dismantling outside of a main business location or supplemental location.
- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.
- (22) Failure to comply with ORS 822.135(1)(j) concerning failure to immediately report to DMV information pertaining to the transfer of a wrecked or dismantled motor vehicle.
- (a) For the first violation: warning;
  - (b) For the second violation: \$250;
  - (c) For the third violation: \$500;
  - (d) For the fourth and subsequent violation(s): \$1,000.

(23) Failure to comply with ORS 822.135(1)(n) or (o) concerning the deployment or removal of any air bag containing sodium azide.

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(24) Failure to notify DMV of any change in the information provided to DMV in the application submitted under OAR 735-152-0005 within 30 days of the change:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(25) Failure to comply with any provision of ORS 822.137(2)(f) or OAR 735-152-0031 concerning dismantler motor vehicle records:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(26) Failure to comply with any provision of ORS 822.137(2)(g) or OAR 735-152-0031 concerning dismantler major component part records:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(27) Failure to comply with ORS 822.137(2)(a), by acquiring a motor vehicle or major component part without first obtaining a certificate of sale and, if applicable, a certificate of title:

- (a) For the first violation: warning;
- (b) For the second violation: \$250;
- (c) For the third violation: \$500;
- (d) For the fourth and subsequent violation(s): \$1,000.

(28) Failure to comply with ORS 822.137(2)(b), regarding the possession, sale or disposal of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen: \$1,000 for the first violation and subsequent violation(s).

(29) Failure to comply with ORS 822.137(2)(c), regarding selling, buying, receiving, concealing, possessing or disposing 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: \$1,000 for the first violation and subsequent violation(s).

(30) Failure to comply with ORS 822.137(2)(d) by committing a forgery in the second degree, as defined in ORS 165.007, or misstating 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: \$1,000 for the first violation and subsequent violation(s).

(31) Failure to comply with ORS 822.137(2)(e) by fraudulently creating or modifying a dismantler certificate: \$1,000 for the first violation and subsequent violation(s).

(32) Failure to comply with ORS 822.137(2)(h) concerning a dishonest act or omission during the sale of a motor vehicle or major component part that, as determined by DMV, causes a loss to the purchaser: \$1,000 for the first violation and subsequent violation(s).

(33) Failure to comply with ORS 822.137(2)(i) concerning being 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: \$1,000 for the first violation and subsequent violation(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.133, 822.135, 822.137, 822.150 & Chapter 433, Or. Laws 2011

Stats. Implemented: ORS 183.430, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140 & 822.150