<richardl.koenig@gmail.com> wrote:
The segment of email following this got "sent" before it was finished, so you may disregard it, it is largely a duplicate of what follows.

This continues my critique begun in the previous email and poses an additional questions:

And further (on from the ORS 801.305 cite in the previous message), the requester, DMV Director, David P. Momaw was illegally situated on an "agency of the Supreme Court" when he asked the Joint Committee on the Revision of the Vehicle Code to enact Senate Bill 124 of 1985. That fact, by itself, means that personnel of Legislative Counsel who assign bill numbers, assisted in getting a vote on what Mr. Moomaw admitted was "not authorized in current law" (titling people's vehicles just because they were sufficiently ill informed enough to "request to title"). Article IV, Section 18 of the Oregon Constitution says, "laws for raising revenue must originate in the House of Representatives". That looks a lot like collusion between the Judicial Branch, the Executive Branch and the Legislative Branch of "State of Oregon's" movers and shakers.

The Joint Committee's chair, Jane Cease, was to become Mr. Moomaw's successor, and the gal who became ODOT's next Director of the Rail Division for the outstanding job she did in keeping a lid on the sensitive information, Claudia Howells, her Committee Administrator ("How many vehicles are involved in this illegal titling scheme..?.", in spite of her recorded commitment to "find" an answer, the committee never got a number).

Since the "Senate Bill" wasn't a House Bill, the Legislative Revenue Office naturally didn't do a financial impact statement on Mr. Moomaw's/Minor Court Rules Committee's proposed legislation. What I am saying here, is that "Optional titling" didn't even get out of the gate, legitimately. And I had coffee with Senator Jane Cease in 2002.
But then the implementing rule that was required to make it happen, didn't get proposed, let alone "adopted" until twenty years later. AND THIS IS THE QUESTION OF THE DAY: When legislation is enacted that requires an implementing rule, is the rule required to be adopted within two years? And Senator Jane Cease, now DMV Director, knew that the law she had gotten passed in 1985 was in need of an implementing rule when she took over.

Then, after Governor Ted Kulongoski instructed DMV to get their act together, David Eyerly, the designated "hearings officer" prepared the NOTICE OF PROPOSED RULE MAKING and the STATEMENT OF NEED AND FISCAL IMPACT. The "financially impacted parties were described as "members of the general public who choose to apply for [vehicle] title". In the next sentence, he continued, "there is no way to determine how many people will choose to apply", apparently meaning, so I'm not going to notify any of them of the option. David Eyerly's file date for his "optional titling rule was November 15, 2004. So my SECOND QUESTION FOR THE DAY: When did David Eyerly's extended leave begin, AND is there a publicly quotable reason for allowing him the time off?

The "optional titling rule was adopted and certified finally adopted on February 16, 2005, even though the Transportation Commissioners admitted (audibly for the record) that they were not "fully informed", and did not read the submissions from the financially impacted party prior to the vote (I was the financially impacted party, and had signed up prior to the hearing to speak).

The rule passed the five year mandatory review period, apparently because it was effectively doing what it was designed to do. But it was repealed on May 18, 2012 and replaced by new rules which provided for not only "titling" but also for "registration" of fire apparatus of public fire districts ("upon request of an owner). Curiously there had not been a previous "optional registration rule", even though, as a financially impacted party, I had submitted the proposed text for a two purpose rule, providing an option for titling and registration, assuming any public member was "fully informed", in 2009. Matthew Garrett of ODOT asked the Transportation Committee to vote not to consider my proposed rule during their October 21, 2009 meeting and
instructed the Rules Coordinator not to include a copy of the rule with the material that is normally placed in the hands of the Commissioners prior to a vote (huh?). This was the Transportation Commissioners second "faux pas" on the same issue.

The first time the Commissioners flubbed was when they voted unanimously to adopt the "optional titling rule", OAR 735-022-0120, having just acknowledged, audibly, that they knew nothing about it, and after I gave them a package of public records from state archives relative to the subject, but before any of them could have read through it.

So, the THIRD QUESTION OF THE DAY IS: What did the general order that was sent out to the Branches after the adoption of the implementing rule look like? This was, historically, a huge change, now allowing a couple of million vehicles a chance to be titled... if the owner requested. I remember one of my friends going in to a local Branch to inquire about the option to title his "solely for personal use" vehicle and being thrown out by private security guards on the say so of the Branch Manager. The FOURTH QUESTION OF THE DAY IS: How was his experience justified by the rule which was adopted for the "gratification" of the general public?

The FIFTH QUESTION OF THE DAY IS: At the fifth year mark for the rule, how many vehicles were being titled under OAR 735-022-0120 AND how much of a change was this from the previous five years.

But on May 18, 2012 the "optional titling rule" allowing for the general public's vehicles to be titled was repealed and replaced with new rules allowing fire apparatus to be "optionally titled and registered". This gives rise the the SIXTH QUESTION OF THE DAY: How many fire trucks "requested" to be titled and registered subsequent to the 18th of May, 2012 to current. In view of ORS 803.040, I have a hard time believing that any sane public service fire district would agree that their fire trucks will be subject to every "traffic control device" on the way to a fire, and I just want to know if there are any which have agreed to be bound by "traffic control devices".

And for the SEVENTH AND FINAL QUESTION OF THE DAY: Now that the general public is no longer allowed to title their vehicles "upon request of an owner" how has that affected the numbers of vehicles titled by DMV? Five years of titling
following repeal on May 18, 2012 will be the answer to this question.

Thank you so much for your public service,

Richard L. Koenig

On Tue, Oct 3, 2017 at 5:25 PM, Richard Koenig <richardl.koenig@gmail.com> wrote:
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On Fri, Sep 22, 2017 at 4:52 PM, Richard Koenig <richardl.koenig@gmail.com> wrote:
Dear Ask ODOT,

In the Oregon Vehicle Code at ORS 153.039 the "persons" who may be stopped by law enforcement officers are set forth (to the extent provided) are "a firm, corporation or other organization".

Aren't these the same "persons" to whom the legislature speaks in the first
sentence of ORS 807.010? A person who operates a motor vehicle on the highways of premises open to the public better have an appropriate grant of driving privilege...

Aren't the vehicles which are operated in Oregon under OAR 735-016-0020(7), "Operating motor vehicles in Oregon" means the physical operation of vehicles for business purposes, the same as the only vehicles which "must comply with the titling requirement" under ORS 803.030(14)(c), "a vehicle operated of the highways of this state for compensation or profit must comply with the titling requirement"? And isn't Article IV, Section 20 of the Oregon Constitution dispositive when it says "laws shall embrace but one subject"? If you have another theory, please bear your burden of persuasion pursuant to the Oregon Evidence Code at Rule 305 and provide not only your theory, but the proof of your assertion.

If you do not bear your burden of persuasion, the conclusion will be dictated by the Oregon Rules of Evidence at Rule 311(c). Evidence willfully suppressed is adverse to the party suppressing. Which in this case means that "the general public" who MAY HAVE CHOSEN to title their vehicles under the repealed "Optional titling rule", OAR 735-022-0120's STATEMENT OF NEED AND FISCAL IMPACT, are not and have never been subject to "all of the provisions of the vehicle code", because subject to ORS 801.305 they use the highway for vehicles "AS A MATTER OF RIGHT"?

Thank you so much for your public service,

Richard L. Koenig

On Thu, Sep 7, 2017 at 5:52 PM, Richard Koenig <richardl.koenig@gmail.com> wrote:
What are the "persons" called, and what is the definition attributed to those who are compelled, as opposed to who may "request" to title and become subject to all of the provisions of the vehicle code.

The reason I ask is that there is no definition of "person" anywhere between the beginning of chapter 801 and the end of 826, but "person" does mean something, right?

--
Richard L. Koenig