

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rules(s) adopted on June 23, 2009 by the
Date prior to or same as filing date.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division 735
Agency and Division Administrative Rules Chapter Number

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to become effective upon filing Rulemaking Notice was published in the May 2009 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Availability and Requirements of Hardship or Probationary Permit
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND: 735-064-0020 and 735-064-0040

ORS 184.616, 184.619, 802.010, 807.240, 807.252 and 807.270 None
Stats. Auth. Other Authority

ORS 807.062, 807.240, 807.250, 807.270, 807.370, 809.265, 809.380, 809.419, 809.421, 813.500 and 813.602
Stats. Implemented

RULE SUMMARY

OAR 735-064-0020 specifies the particular types of suspensions for which DMV will not issue a hardship or probationary permit. OAR 735-064-0020 previously did not allow DMV to issue a hardship permit to a person who had committed a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card.

To establish identity, DMV is using facial recognition software to compare a person's current photograph with his or her previous photographs and all other digital photographs in DMV's data base. As a result, DMV can determine if a person previously applied for a driver license or ID card using a false name, false age or through some other fraudulent or unlawful act. ORS 809.310 and OAR 735-070-0004 authorizes DMV to suspend a person's driving privileges or identification card and the person's right to apply for privileges and an ID card if the person committed a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card.

Often these suspensions result from an application for false ID when the person was under the age of 21 years. Once DMV determines the person obtained a driver license or ID card through a fraudulent or unlawful act, a suspension is imposed regardless of the number of years that have passed and regardless of the circumstances. For example, the person may have obtained the false identification in college and now eight years later is gainfully employed. Ineligibility for a hardship permit can result in tremendous financial impact on a person whose poor judgment has come to light many years later. DMV determined it is inequitable that a person convicted of a crime such as DUII or reckless driving is eligible for a hardship permit, whereas a person who obtained a false license or ID card is not eligible. DMV corrected this inequity by amending OAR 735-064-0020 to repeal the prohibition on issuance of a hardship permit under these circumstances. The result is that a person whose driving privileges are suspended under ORS 809.310(3) or 809.411(9) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card will be eligible for a hardship permit if he or she otherwise qualifies.

OAR 735-064-0040 establishes the application requirements for persons applying for a hardship or probationary permit. The requirements may differ depending on the reason the person's driving privileges are suspended or revoked. DMV amended this rule to specify that a person applying for a hardship permit whose driving privileges are suspended for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card, must provide documentation insuring that the person is being issued the hardship permit in his or her true identity.

Authorized Signer Thomas L. McClellan Printed Name _____ Date _____

* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

** The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.