

# TRAFFIC NEWSLETTER

Deputy Director's Office 1905 Lana Avenue NE Salem, Oregon 97314

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**HB 2107 – Commercial driver license compliance** • House Bill 2107 from the 2005 Oregon Legislature brings Oregon into compliance with Federal Motor Carrier Safety Administration (FMCSA) rules related to commercial driver licenses. The laws took effect Sept. 30, 2005. The bill does the following:

**Creates a new school bus endorsement with associated testing requirements.**

FMCSA rules require operators of school buses to take and pass a school bus endorsement knowledge test and a skills test in a school bus. These drivers must also obtain a CDL with the new school bus endorsement (S) on their license, in addition to the existing passenger endorsement.

The commercial driver license will show an “S” in the “Endorsements” field on the actual piece of plastic. The driving record will also show an “S” in the endorsement field.

This portion of the bill had an emergency clause and permitted issuance of the endorsement upon passage.

After Sept. 30, 2005, only persons with the “S” on their commercial driver license are authorized to operate a school bus.

**Expands the list of traffic violations that result in the CDL “serious violation” suspension.**

FMCSA rules require three additional convictions to count toward a “serious violation” suspension. The additional convictions are:

- Driving a CMV when the driver has not obtained a CDL.
- Driving a CMV without a CDL in the driver’s possession. If the driver provides proof to the endorsement authority that issued the citation, by the date the driver must appear in court or pay a fine, that the driver held a valid CDL on the date the citation was issued, shall not be guilty of this offense.
- Driving a CMV without the proper class of CDL and/or endorsements for the vehicle being operated.

Reckless driving in a non-CMV will also count towards a serious violation suspension if the driver has a valid CDL at the time of the offense.

Any second or subsequent serious violation suspension must be imposed consecutively to any other “open” serious violation suspension on the record. “Open” means the suspension is still in effect.

**Expands the list of traffic violations that result in a CDL suspension, including certain traffic violations committed while driving vehicles other than commercial motor vehicles.**

FMCSA rules require DMV to impose a suspension for certain violations if a driver is operating a CMV, regardless of whether or not they hold a CDL; or if they are operating a non-CMV and

hold a valid CDL. A driver is deemed to hold a valid CDL if the CDL has current expiration, is expired less than one year or is suspended. This section does not apply to persons who hold only a CDL instruction permit unless they are operating a CMV at the time of the offense.

Any combination of two of the violations described below, committed by a valid CDL holder in any type of motor vehicle or by any driver, regardless of license type, in a CMV, will result in a lifetime suspension of a person's CDL or right to apply for a CDL. A driver may petition DMV after 10 years to request reinstatement of the CDL or right to apply for a CDL.

Any combination of three of the violations described below, committed by a valid CDL holder in any type of motor vehicle or by any driver, regardless of license type, in a CMV, will result in a lifetime suspension of a person's CDL or right to apply for a CDL. There is no reinstatement provision for these drivers.

The violations are:

- Being under the influence of alcohol as prescribed by state law;
- Being under the influence of a controlled substance;
- Having an alcohol concentration of 0.04 or greater while operating a CMV;
- Refusing to take an alcohol test as required by a state under its implied consent laws;
- Leaving the scene of an accident;
- Using the vehicle to commit a felony (includes but is not limited to assault, criminal mischief, fleeing or attempting to elude, murder, negligent homicide, manslaughter, unauthorized use);
- Driving a CMV when, as a result of prior violations committed operating a CMV, the CDL is revoked, suspended or canceled, or the driver is disqualified from operating a CMV;
- Causing a fatality through the negligent operation of a CMV, including but not limited to motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

Any conviction, first, second, etc., for using the vehicle in the commission of a felony involving manufacturing, distributing or dispensing a controlled substance results in a lifetime suspension of a person's CDL or right to apply for a CDL. There is no reinstatement provision for these drivers.

A new conviction (CTRL SUB) will be used if a person is convicted of using a non-CMV in the commission of a felony involving manufacturing, distributing or dispensing a controlled substance and the person holds a valid CDL. Courts will be required to send this conviction to DMV. Currently, a conviction for this offense is only submitted to DMV when it involves operation of a CMV.

**Prohibits any action on specific traffic violations by CDL holders that would prevent the conviction from appearing on the driver's record, or any applicable suspension from being administered.**

FMCSA rules prohibit a state from offering any diversion on traffic offenses committed by a CDL holder.

If a CDL holder is convicted of a traffic violation, the conviction must be recorded on the driving record, and any subsequent suspension against the CDL must occur.

For example: If a CDL holder is convicted of driving under the influence of intoxicants, the driver may be required by the court to complete a diversion course. Completion of the diversion course does not eliminate the posting of the conviction to the driving record or the imposition of a suspension against the person's CDL.

**Allows the FMCSA Assistant Administrator to immediately suspend a CMV driver whose driving is determined to constitute an imminent hazard.**

FMCSA rules establish authority for the FMCSA to impose an emergency disqualification of a CDL driver if the administration determines that the driver poses an imminent hazard. The disqualification may not exceed one year.

FMCSA rules define imminent hazard as “the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment.”

FMCSA may provide the driver an opportunity for a hearing after issuing a disqualification for a period of 30 days or less. FMCSA must provide the driver the opportunity for a hearing if the disqualification is for a period of more than 30 days.

**Requires DMV to impose a failure-to-appear or failure-to-comply suspension of the CDL portion of an Oregon driver license as ordered by another state when the underlying offense occurred in a CMV or the driver holds an Oregon CDL.**

DMV is required to impose a failure-to-appear or failure-to-comply suspension of the CDL portion of an Oregon driver license as ordered by another state when the underlying offense is a traffic violation that would lead to suspension if it occurred in Oregon.

The suspension length will be for five years or until the other state sends in a clearance, whichever occurs first.

For additional information, please call (503) 945-5000 or (503) 299-9999 (Portland Metro Area), or visit the DMV Web site at [www.OregonDMV.com](http://www.OregonDMV.com).

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**Oregon Traffic Accident and Insurance Reports -- to be submitted to DMV directly •** Senate Bill 78 amends ORS 811.725 mandating all Oregon Traffic Accident and Insurance Reports be submitted directly to DMV effective Jan. 1, 2006. Previously, individuals could submit completed accident reports to local county or city law enforcement agencies, which would forward the reports to DMV.

Traffic accidents meeting certain criteria must be reported to DMV within 72 hours of the accident or driving privileges will be suspended. The requirement that an accident report be submitted directly to DMV reduces the potential for a delay or a lost report that may lead to suspension of driving privileges and payment of a reinstatement fee as a result of a failure to report.

Completed Oregon Traffic Accident and Insurance Reports should be mailed to DMV Headquarters or dropped off at any DMV field office.

For more information, contact Mary Grosso, DMV Driver Programs, at (503) 945-5520 or at [mary.l.grosso@odot.state.or.us](mailto:mary.l.grosso@odot.state.or.us).

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**Members of the National Guard and military reservists are given extensions on license and registration privileges** • Senate Bill 487 makes special exceptions to assist certain persons serving in the military. Effective Jan. 1, 2006, Oregon National Guard and military reservists ordered on active duty and deployed to a location outside of the U.S. will be granted specific allowances up to 90 days following the termination of active duty:

1. If a person's driver license expires while the holder is on active duty, the driving privileges remain valid and will continue to be valid for 90 days following the termination of active duty. If law enforcement should cite a member of the Oregon National Guard or military reservists with the offence of operating a vehicle without driving privileges (OP V REST) under ORS 807.010 because of the license expiration, while the person was on active duty or for 90 days following the termination of active duty, the court shall dismiss the charge.
2. If the registration of a vehicle registered in the name of the Oregon National Guard or military reservist expires while the person is on active duty, the registration shall remain valid for 90 days following the termination of active duty. A court shall dismiss the charge of failure to renew vehicle registration under ORS 803.455 (F RNW VH REG) if, when charged, the person was on active duty or for 90 days following the termination of active duty.
3. If the validating stickers for a vehicle registered to one of these persons expires while the person is on active duty, the vehicle license plate shall remain valid for 90 days following the termination of active duty. A court shall dismiss the charge of improper display of validating stickers under ORS 803.560 (IMP D STKR) if, when charged, the person was on active duty or for 90 days following the termination of active duty.

For more information, contact DMV Customer Assistance at (503) 945-5000 or in Portland at (503) 299-9999.

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**SB 568 – Suspension of driving privileges for speeding offenses** • Senate Bill 568 authorizes the courts to suspend the driving privileges of a person convicted of violating the speed limit or designated speed (VBR cases) by more than 30 miles per hour if the person has at least one prior conviction under ORS 811.100 or ORS 811.111 within 12 months of the date of the current offense. The suspension may be for up to 30 days.

The law becomes effective Jan. 1, 2006.

If a person drives 100 miles per hour or faster when the person commits a violation described in this section (811.100 or 811.111), a court shall impose the following in lieu of a punishment otherwise imposed under this section:

- (a) A fine of \$1,000; and
- (b) A suspension of driving privileges for not less than 30 days nor more than 90 days.

Courts must notify DMV that a person was convicted of one of these speeding offenses. These offenses will be added to the Notice of Court Action, Form 735-6115.

For more information please contact: Steve D. Vitolo, ODOT Safety Division, Program Manager, Law-Enforcement and Judicial Programs, 503-986-4446.

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**SB 153 – Photo radar and photo red light** • Senate Bill 153 changes the statutes that govern cities use of photo radar and photo red light systems.

Effective Jan. 1, 2006, SB 153 ensures that cities using these systems to enforce traffic laws will use them consistently. The bill requires that the cities evaluate their systems and report to the legislative assembly; ODOT will summarize the reports and provide an executive summary by March 1 of each regular legislative session.

SB 153 also requires the court to dismiss a citation for running a red light or for speeding if the registered owner provides a “certificate of innocence” and a photo copy of his or her driver license (unless the images of the violator match the photo on the driver license).

For more information please contact: Steve D. Vitolo, ODOT Safety Division, Program Manager, Law-Enforcement and Judicial Programs, 503-986-4446.

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**Annual Judicial Education Conference dates** • Judges, mark your calendars for the Annual Judicial Education Conference March 1-3, 2006, hosted by the Transportation Safety Division.

Watch for announcements and the draft agenda items being sent out in the next month.

For more information please contact:

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