

**PROPOSED AMENDMENTS TO  
SENATE BILL 126**

1 On page 1 of the printed bill, line 2, after “substances;” delete the rest  
2 of the line and line 3 and insert “amending ORS 802.200, 802.202, 825.410 and  
3 825.412.”.

4 Delete lines 5 through 25 and delete pages 2 through 6 and insert:

5 **“SECTION 1.** ORS 825.410 is amended to read:

6 **“825.410. (1) Every motor carrier must:**

7 **“(a) Have an in-house drug and alcohol testing program that meets the**  
8 **federal requirements of 49 C.F.R. part 382; or**

9 **“(b) Be a member of a consortium, as defined in 49 C.F.R. 382.107, that**  
10 **provides testing that meets the federal requirements.**

11 **“(2) At the time of registration or renewal of registration of a commercial**  
12 **vehicle or a commercial motor vehicle under any provision of ORS chapter**  
13 **803 or 826, a motor carrier must certify to the Department of Transportation**  
14 **that the carrier is in compliance with subsection (1) of this section and, if**  
15 **the carrier belongs to a consortium, must provide the department with the**  
16 **[names of persons who operate] name of the consortium.**

17 **“(3) When a medical review officer of a motor carrier’s testing program**  
18 **or of the consortium the carrier belongs to determines that a positive test**  
19 **result is valid, the officer must report the finding to the department.**

20 **“(4) When a motor carrier receives notice from a medical review**  
21 **officer that an employee required to take a drug test under 49 C.F.R.**  
22 **part 382 tested positive for drugs, the motor carrier may report the**

1 **finding to the department.**

2 **“(5) Except as provided in subsection (6) of this section, a motor**  
3 **carrier shall notify the department in writing within 10 business days**  
4 **of the date that an employee required to take a drug test under 49**  
5 **C.F.R. part 382 refused to submit to a drug test.**

6 **“(6) A motor carrier is not required to notify the department of a**  
7 **person’s refusal to take a preemployment drug test.**

8 **“(7) A motor carrier shall notify the department under subsection**  
9 **(4) or (5) of this section on a form prescribed by rule by the depart-**  
10 **ment.**

11 **“SECTION 2. ORS 825.412 is amended to read:**

12 **“825.412. (1) When the Department of Transportation receives a report**  
13 **under ORS 825.410, the department shall notify the person who is the subject**  
14 **of the report that the person has a right to a hearing to determine whether**  
15 **the test results reported or refusal to submit to a test reported under ORS**  
16 **825.410 will be placed on the person’s employment driving record.**

17 **“(2) The notice shall inform the person of the procedure for requesting a**  
18 **hearing, including but not limited to the time in which a hearing must be**  
19 **requested and the manner of making the request.**

20 **“(3) A hearing under this section shall be limited to the following issues:**

21 **“(a) Whether the person named in the report is the person who took the**  
22 **test or refused to take the test.**

23 **“[(b) Whether the motor carrier or consortium has a program that meets the**  
24 **requirements of ORS 825.410.]**

25 **“[(c) Whether the medical review officer making the report correctly fol-**  
26 **lowed the procedures for testing established by the motor carrier or**  
27 **consortium.]**

28 **“(b) Whether the person named in the report is subject to the fed-**  
29 **eral requirements under 49 C.F.R. part 382.**

30 **“(c) If positive test results were reported, whether the medical re-**

1 view officer making the report correctly followed the protocols under  
2 49 C.F.R. parts 40 and 382 to verify or confirm the test results.

3 **“(d) If the person named in the report refused to take a drug test,  
4 other than a preemployment drug test, whether the circumstances  
5 constitute a refusal of a test under 49 C.F.R. part 382.**

6 *“(4) If the administrative law judge determines that the person is the per-  
7 son named in the report, that the motor carrier or consortium has a program  
8 meeting the requirements of ORS 825.410 and that the medical review officer  
9 followed established procedures, the administrative law judge shall order the  
10 positive test result to be entered into the employment driving record of the  
11 person.]*

12 **“(4) The administrative law judge shall order the positive test result  
13 or refusal to take a test to be entered into the employment driving  
14 record of the person if the administrative law judge determines that  
15 the person is the person named in the report, that the person is sub-  
16 ject to the federal requirements under 49 C.F.R. part 382 and:**

17 **“(a) That the medical review officer followed the protocols under  
18 49 C.F.R. parts 40 and 382 to verify or confirm the drug test results;  
19 or**

20 **“(b) That, if the person refused to take a test, the circumstances  
21 constitute a refusal to take a test under 49 C.F.R. part 382.**

22 **“(5) The department shall adopt rules specifying requirements for re-  
23 questing a hearing under this section.**

24 **“(6) If a hearing is not requested within the time limit established by rule,  
25 or if the person does not appear at a hearing, the department shall place the  
26 information about the positive test result or refusal to take a test on the  
27 employment driving record of the person.**

28 **“(7) Neither the department nor the motor carrier may [not] be held  
29 civilly liable for any damage resulting from placing information about a drug  
30 test result or refusal to take a test on the employment driving record as**

1 required by this section or for any damage resulting from release of the in-  
2 formation by the department that occurs in the normal course of business.

3 **“SECTION 3.** ORS 802.200, as amended by section 8, chapter 1, Oregon  
4 Laws 2008, is amended to read:

5 “802.200. In addition to any other records the Department of Transporta-  
6 tion may establish, the department is subject to the following provisions  
7 concerning records:

8 “(1) The department shall maintain records concerning the titling of ve-  
9 hicles in this state. The records under this subsection shall include the fol-  
10 lowing:

11 “(a) For vehicles issued a title by this state, the records shall identify the  
12 vehicle and contain the following:

13 “(A) The name of the vehicle owner and any security interest holders in  
14 order of priority, except that a security interest holder need not be identified  
15 if the debtor who granted the interest is in the business of selling vehicles  
16 and the vehicles constitute inventory held for sale;

17 “(B) The name of any lessor of the vehicle;

18 “(C) The vehicle description; and

19 “(D) Whether a certificate of title was issued for the vehicle.

20 “(b) If the vehicle is an antique vehicle that is reconstructed, the records  
21 shall indicate that the vehicle is reconstructed.

22 “(c) If the vehicle is a replica, the records shall indicate that the vehicle  
23 is a replica.

24 “(d) Any other information concerning the titling of vehicles that the  
25 department considers convenient or appropriate.

26 “(e) All odometer readings for a vehicle that are reported to the depart-  
27 ment under provisions of the vehicle code.

28 “(f) If the vehicle has been reported to the department as a totaled vehicle  
29 under the provisions of ORS 819.012 or 819.014, the records shall indicate  
30 that the vehicle is a totaled vehicle unless the reason for the report was

1 theft and the vehicle has been recovered.

2 “(2) If a vehicle that has been registered or titled in another jurisdiction  
3 is registered or titled in this state, the department shall retain a record of  
4 any odometer readings shown on the title or registration documents submit-  
5 ted to the department at the time of registration or title.

6 “(3) Except as otherwise provided in ORS 826.003, the department shall  
7 maintain records concerning the registration of vehicles required to be reg-  
8 istered by the department. The records concerning the registration of vehi-  
9 cles may be stored along with records concerning the titling of vehicles. The  
10 records under this subsection shall include the following:

11 “(a) For vehicles registered by the department, the records shall identify  
12 the vehicle and contain the following:

13 “(A) The registration plate number assigned by the department to the  
14 vehicle;

15 “(B) The name of the vehicle owner;

16 “(C) The vehicle description and vehicle identification number; and

17 “(D) An indication that the vehicle is a totaled vehicle if it has been re-  
18 ported to the department as a totaled vehicle under the provisions of ORS  
19 819.012 or 819.014, unless the reason for the report was theft and the vehicle  
20 has been recovered.

21 “(b) Any other information concerning the registration of vehicles that  
22 the department considers convenient or appropriate.

23 “(4) The department shall maintain separate records for the regulation  
24 of vehicle dealers. The records required under this subsection shall include  
25 the following information about persons issued dealer certificates:

26 “(a) The person’s application for a vehicle dealer certificate.

27 “(b) An alphabetical index of the name of each person applying for a ve-  
28 hicle dealer certificate.

29 “(c) A numerical index according to the distinctive number assigned to  
30 each vehicle dealer.

1       “(5) The department shall maintain a file on vehicles for which the title  
2 record is canceled under ORS 819.030. The records required under this sub-  
3 section shall disclose the last registered owner of each vehicle, any security  
4 interest holder or holders and lessors of each vehicle as shown by the can-  
5 celed title record for each vehicle and the make and year model for each  
6 vehicle.

7       “(6) The department shall maintain a record of each agreement or decla-  
8 ration under ORS 802.500 and 802.520.

9       “(7) The department shall maintain separate and comprehensive records  
10 of all transactions affecting the Revolving Account for Emergency Cash  
11 Advances described under ORS 802.100.

12       “(8) The department shall maintain suitable records of driver licenses,  
13 driver permits and identification cards. The records required under this  
14 subsection shall include all of the following:

15       “(a) An index by name and number.

16       “(b) Supporting documentation of all driver licenses, driver permits or  
17 identification cards issued.

18       “(c) Every application for a driver license, driver permit or identification  
19 card.

20       “(d) All driver licenses or driver permits that have been suspended or  
21 revoked.

22       “(e) For each driver license, driver permit or identification card, the So-  
23 cial Security number of the person to whom the driver license, driver permit  
24 or identification card is issued or proof that the person is not eligible for a  
25 Social Security number.

26       “(f) For each commercial driver license, the Social Security number of the  
27 person to whom the license is issued, or any other number or identifying  
28 information that the Secretary of the United States Department of Trans-  
29 portation determines appropriate to identify the person.

30       “(9) The Department of Transportation shall maintain a two-part driving

1 record consisting of an employment driving record and a nonemployment  
2 driving record for each person as required under this subsection. All of the  
3 following apply to the records required under this subsection:

4 “(a) The department shall maintain driving records on:

5 “(A) Every person who is granted driving privileges under a driver li-  
6 cense, driver permit or a statutory grant of driving privileges under ORS  
7 807.020;

8 “(B) Every person whose driving privileges have been suspended, revoked  
9 or canceled under this vehicle code;

10 “(C) Every person who has filed an accident report under ORS 811.725 or  
11 811.730; and

12 “(D) Every person who is required to provide future responsibility filings  
13 under ORS 806.200, 806.220, 806.230 or 806.240.

14 “(b) In addition to other information required by this paragraph, the em-  
15 ployment driving record shall include all reports of drug test results **and**  
16 **refusals to submit to tests** that are made to the department under ORS  
17 825.410. Notwithstanding any other provision of law, release of the portion  
18 of the employment driving record that shows drug test results **and refusals**  
19 **to submit to tests** reported under ORS 825.410 is permitted only in accord-  
20 ance with ORS 802.202. The employment driving record shall also include all  
21 motor vehicle accidents that the person is required to report under ORS  
22 811.720, all suspensions of driving privileges required to be placed on the  
23 record under ORS 809.280, all suspensions of the person’s commercial driver  
24 license that result from operation or use of a commercial motor vehicle and  
25 all convictions of the person for violation of motor vehicle laws except con-  
26 victions for offenses requiring mandatory revocation or suspension of driving  
27 privileges under ORS 809.409, 809.411, 809.413 and 813.400, but shall include  
28 only such accidents, suspensions and convictions that occur while the person  
29 is driving a motor vehicle:

30 “(A) In the course of the person’s employment when the person is em-

1 ployed by another for the principal purpose of driving a motor vehicle;

2 “(B) Carrying persons or property for compensation;

3 “(C) In the course of the person’s employment in the collection, trans-  
4 portation or delivery of mail if the vehicle is government owned or marked  
5 for the collection, transportation or delivery of mail in accordance with  
6 government rules;

7 “(D) That is an authorized emergency vehicle;

8 “(E) That is a commercial motor vehicle; or

9 “(F) In the course of the person’s employment with a federal, state or lo-  
10 cal government in a public works project involving repair or maintenance  
11 of water, sewer or road systems.

12 “(c) The nonemployment driving record shall include the person’s:

13 “(A) Motor vehicle accidents that the person is required to report under  
14 ORS 811.720, other than the motor vehicle accidents that are included on the  
15 person’s employment driving record;

16 “(B) Suspensions, cancellations and revocations of licenses, permits and  
17 driving privileges;

18 “(C) Convictions for violation of the motor vehicle laws other than those  
19 included in the employment driving record including, for each violation of  
20 ORS 811.100 or 811.111, the speed at which the person was convicted of  
21 traveling and the posted speed, the speed limit or the speed that constitutes  
22 prima facie evidence of violation of the basic speed rule, as appropriate; and

23 “(D) Diversion agreements entered into under ORS 813.220 within the  
24 preceding 10 years.

25 “(d) The department may record other entries to indicate correspondence,  
26 interviews, participation in driver improvement programs or other matters  
27 concerning the status of the driving privileges of the person.

28 “(e) When a person from another jurisdiction applies for a driver license  
29 or driver permit issued by this state, the department shall request a copy of  
30 the person’s driving record from the other jurisdiction. At the time the per-

1 son is issued a license in Oregon, the record from the other jurisdiction shall  
2 become part of the driver's record in this state with the same force and effect  
3 as though entered on the driver's record in this state in the original in-  
4 stance. The department by rule may specify methods for converting entries  
5 from out-of-state records for use in Oregon.

6 "(f) When a suspension of a driver permit, driver license or other driving  
7 privilege is placed on the driving record under ORS 809.280 for failure to  
8 appear in court on a traffic crime, the department shall note on the record  
9 that the suspension was for failure to appear in court and shall also note the  
10 offense charged against the person on which the person failed to appear.

11 "(g) The Department of Transportation, in consultation with the Depart-  
12 ment of State Police, shall devise and implement a method of noting sus-  
13 pensions and revocations of driving privileges on the record in such a way  
14 that police agencies can determine directly from the record what class of  
15 offense, as provided by law, is committed by a person who drives in violation  
16 of the suspension or revocation. If the Department of Transportation and the  
17 Department of State Police devise a mutually agreeable alternative method  
18 of informing police agencies of the nature of a suspension or revocation and  
19 the consequences of its violation, the implementation of that method shall  
20 satisfy the duty of the Department of Transportation under this paragraph.

21 "(10) The Department of Transportation shall maintain records of judg-  
22 ments or convictions sent to the department under ORS 810.375.

23 "(11) The department shall maintain accident reports filed with the de-  
24 partment under ORS 810.460 and 811.725 to 811.735.

25 "(12) The department shall maintain records of bank checks or money  
26 orders returned under ORS 802.110.

27 "(13) The department shall maintain records of trip permits issued by the  
28 department under ORS 803.600, as provided under this subsection. The re-  
29 cords required by this subsection shall include the following:

30 "(a) A description of the vehicle sufficient to identify the vehicle.

1       “(b) The person to whom the permit was issued.

2       “(c) When the permit was issued.

3       “(d) The type of permit issued.

4       “(e) For registration weight trip permits, the maximum allowable regis-  
5 tration weight permitted for operation under the permit.

6       “(f) Any other information the department determines appropriate or  
7 convenient.

8       “**SECTION 4.** ORS 802.202 is amended to read:

9       “802.202. The Department of Transportation shall disclose information  
10 about a drug test result **or refusal to submit to a test** that is made to the  
11 department under ORS 825.410 only if the person who requests the informa-  
12 tion provides the department with written permission from the person who  
13 is the subject of the report.”.

14

---